

Administrative Legislation

MONTCLAIR CODE

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Commissioners (now Council) of the Town (now Township) of Montclair as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Adoption of Code**[Adopted 5-23-2000 by Ord. No. 00-19]****§ 1-1. Adoption of Code.**

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Township of Montclair of a general and permanent nature adopted by the Township Council of the Township of Montclair, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 347, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Township of Montclair," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede the 1979 Code and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

This ordinance shall take effect immediately upon passage and publication according to law.

§ 1-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Township Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Township of Montclair by impressing thereon the Seal of the township, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the township, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-5. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Township of Montclair" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

§ 1-6. Publication; filing.

The Clerk of the Township of Montclair, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance in a newspaper of general circulation in the township. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by the Township Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Township of Montclair to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to one or more of the following: a fine of not more than \$1,000, imprisonment for not more than 90 days or a period of community service not exceeding 90 days, in the discretion of the Judge imposing the same.

§ 1-10. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adopting Ordinance, except as hereinafter provided.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to July 20, 1999.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.

- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the township's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any ordinance adopting or amending the Zoning Map.
- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- N. All ordinances dealing with vehicle and traffic matters which are not included in Chapter 327, Vehicles and Traffic, including but not limited to Ord. No. 98-3 and all ordinances dealing with traffic control signals, yield intersections, multiway stop intersections, no-passing zones and handicapped parking

§ 1-14. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Township Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the changes, amendments or revisions as set forth in Schedule A¹ attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)
- C. Nomenclature changes. Throughout the Code of the Township of Montclair, the following nomenclature changes were made:

1. Editor's Note: In accordance with § 1-, the chapters parts, articles and sections which were amended, added, deleted or adopted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 5-23-2000 by Ord. No. 00-19." Schedule A, which contains a complete description of all changes, is on file in the township offices.

- (1) Town to township.
- (2) Town of Montclair to Township of Montclair.
- (3) Board of Commissioners to Township Council or Council.
- (4) Commissioners to Council members, except for certain portions of Chapter 31.
- (5) Department of Engineering to Department of Public Works.
- (6) Township Clerk or Clerk to Municipal Clerk.
- (7) Magistrate to Judge.
- (8) Comptroller to Chief Financial Officer.

D. Statutory references. Statutory references throughout the Code have been updated as necessary.

§ 1-15. Gender-neutral language.

In the interpretation of wording in the Code of the Township of Montclair, it is the intention of the Township Council that all words purporting the male gender be interpreted to include the female gender as well, unless the context precludes such interpretation.

ARTICLE II
Ordinances Adopted During Codification

[During the process of codification, certain complete new ordinances were approved by the Council for inclusion in the Code of the Township of Montclair. Such new ordinances are noted in the histories of individual chapters or articles as "Adopted. . . during codification (see Ch. 1, General Provisions, Art. II)." In accordance with recognized codification procedures, these new ordinances will be adopted separately and are presently proposed before the Council of the Township of Montclair for that purpose. Upon final adoption of such ordinances, a complete enumeration of all chapters and articles in the Code included in such ordinances will be printed in this article along with specific dates of adoption. During the course of routine supplementation, specific dates will be inserted where pertinent in the text of various chapters.

The listing below sets forth each chapter affected by any such legislation adopted during codification. The complete text of such ordinances is on file in the office of the Municipal Clerk where it may be inspected during regular office hours.]

Ord. No.	Chapter	Adoption Date
00-18	218, Nuisances	5-23-2000
00-20	327, Vehicles and Traffic	5-23-2000

ADMINISTRATION OF GOVERNMENT

Chapter 3

ADMINISTRATION OF GOVERNMENT

[HISTORY: Adopted by the Board of Commissioners (now Council) of the Town (now Township) of Montclair 9-9-1980 by Ord. No. 80-52 (Ch. 6 of the 1979 Code). Amendments noted where applicable.]

ARTICLE I

Title; Word Usage; Interpretation**§ 3-1. Title.**

This chapter shall be known as the "Montclair Administrative Code."

§ 3-2. Word usage.

For the purpose of this code and any other ordinances or resolutions heretofore or hereafter adopted, except as the context may otherwise require:

- A. The present tense includes the past and future tenses, and the future the present.
- B. The masculine tender includes the feminine and neuter.
- C. The singular number includes the plural, and the plural the singular.
- D. "Shall" is mandatory, and "may" is permissive.
- E. The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded.
- F. "Writing" and "written" mean any visual mode of reproducing words or numbers on paper or similar material that is in general use.
- G. "Charter" shall mean Council-Manager Plan pursuant to N.J.S.A. 40:69A-81, and all applicable provisions of the general law or those adopted by Charter amendment in accordance with law.
[Amended 5-23-2000 by Ord. No. 00-19]

§ 3-3. Interpretation.

- A. It is the intent of the Council in enacting this code to exercise fully the powers delegated by the Charter to organize and regulate its internal affairs, and the provisions of the code shall be construed liberally to that end.
- B. The code shall be interpreted and administered so as to maintain the separation of legislative and administrative powers as provided in the Charter.

ARTICLE II
Township Council

§ 3-4. Election; terms; compensation.

Members of the Council, elected as provided by Charter, for terms beginning July 1, 1980, shall be paid in accordance with the annual Salary Ordinance² in the same manner as all other officers and employees.

§ 3-5. Vacancies.

Vacancies on the Council shall be filled in the manner prescribed by law.

§ 3-6. Mayor and Deputy Mayor. [Amended 5-23-2000 by Ord. No. 00-19]

The Mayor shall be elected by the voters. The Council shall appoint a Deputy Mayor from its membership to serve a term to be determined by the Council.

§ 3-7. Postelection transition.

Members-elect of the Council shall be notified of all Council meetings to be held between election day and the date of organization, as if they were incumbents. They shall be entitled to attend all such meetings and to participate in all premeeting conferences without vote.

§ 3-8. Powers and duties.

The Council will exercise all powers and perform all duties granted by the Optional Municipal Charters Law, P.L. 1950, c. 210,³ and by general law, which are not otherwise delegated by this chapter.

§ 3-9. Meetings.

- A. All meetings, including premeeting conferences, shall be public and held at times and places fixed by the Council, in accordance with the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.). Exceptions, if any, shall be as authorized therein.
- B. Regular meetings. The Council shall schedule its regular meetings and conference meetings by resolution adopted annually. **[Amended 5-23-2000 by Ord. No. 00-19]**
- C. Premeeeting conferences. The Council may hold premeeting conferences in preparation for regular meetings as permitted by law.
- D. Special meetings. The Mayor may call special Council meetings and shall do so upon written request of a majority of the whole Council. The request and call for a special meeting shall state the purpose thereof, and no other business shall be transacted. The call shall be filed with the Municipal Clerk at least 24 hours before the time for which the meeting is called, provided that, if the Mayor declares an emergency affecting the public health or safety, the call so stating may be filed three hours before the meeting. Upon receipt of notice, the Municipal Clerk shall forthwith notify each member and member-elect, make copies of the call available to the press and post at least one copy in a prominent place on the first floor of the municipal building.

2. Editor's Note: See Ch. 55, Salaries and Compensation.

3. Editor's Note: See N.J.S.A. 40:69A-1 et seq.

§ 3-10. Adoption of procedural rules.

The Council may by resolution adopt bylaws and procedural rules.

§ 3-11. Board of Health. [Amended 5-23-2000 by Ord. No. 00-19]

The Council shall be the duly constituted Board of Health and the local Alcoholic Beverage Control Board.

§ 3-12. Annual audit.

The Council shall appoint an independent auditor to make an annual audit of the municipal accounts and financial records as required by law.

ARTICLE III
Municipal Clerk

§ 3-13. Appointment; powers and duties.

The Council shall appoint a Municipal Clerk who shall:

- A. Serve as Secretary of the Council, keeping minutes and records of its proceedings, maintaining and compiling its ordinances and resolutions as required by the Charter. **[Amended 5-23-2000 by Ord. No. 00-19]**
- B. Have custody of the Township Seal and affix it to such books, papers and documents as may be authorized pursuant to law.
- C. Have and take custody of all official books, papers and documents of the Township for which no other repository is provided by charter or ordinance.
- D. Perform such functions as are vested in the Municipal Clerk by the licensing provisions of state law or ordinance.
- E. Perform all of the functions required of municipal clerks by general election law (N.J.S.A 19:1-1 et seq.).

§ 3-14. Organization.

The internal organization of the office shall be recommended by the Municipal Clerk and approved by resolution of the Council.

ARTICLE IV
Township Attorney

§ 3-15. Appointment; qualification.

The Township Attorney shall be appointed by the Council in accordance with N.J.S.A. 40A:9-139. Prior to appointment, the Attorney shall have been admitted to the practice of law in this state.

§ 3-16. Powers and duties. [Amended 5-23-2000 by Ord. No. 00-19]

The Attorney shall be the legal advisor to the Council, Manager, Municipal Clerk, departments and other municipal agencies except as may otherwise be provided by law. The Attorney shall prosecute and defend actions and proceedings by and against the Township, departments and agencies thereof. In furtherance of these powers, and without limitation thereof, the Attorney shall:

- A. Prepare or approve all ordinances and substantive resolutions prior to introduction and passage.
- B. Review and approve all contracts, deeds, documents and instruments prior to the execution thereof by or on behalf of the Township.
- C. Conduct appeals from orders, decisions or judgments affecting any interest of the Township as directed by the Council.
- D. Subject to the approval of the Council, have power to enter into any agreement, compromise or settlement of any litigation in which the Township is involved.
- E. Advise or render opinions upon any question of law pertaining to municipal affairs submitted to him or her by the Manager, the Council or any Council member.
- F. Maintain a record of all actions, suits, proceedings and matters which relate to the Township's interest and report thereon from time to time as the Council or Manager may require.
- G. Have such other and different functions, powers and duties as may be provided by charter or ordinance.

§ 3-17. Organization.

The internal organization of the office of the Township Attorney shall be recommended by the Township Attorney and approved by resolution of the Council.

§ 3-18. Certain documents property of the Township.

All papers, documents, memorandums, reports and other materials relating to the administration of the office of Attorney shall be and remain the property of the Township. Upon the termination of service with the Township, the Attorney shall forthwith surrender to his or her successor all such property, together with a written consent to substitution of his or her successor in all legal actions and proceedings then pending to which the Township is a party.

ARTICLE V
Municipal Court

§ 3-19. Jurisdiction; appointment of Judge.

There shall be a Municipal Court which shall have and exercise the limited civil and criminal jurisdiction prescribed by law. The Judge shall be appointed in accordance with law.

§ 3-20. Municipal Court Administrator; organization. [Amended 5-23-2000 by Ord. No. 00-19]

The Court shall have a Municipal Court Administrator. The internal organization of the Court shall be recommended by the Judge and approved by resolution of the Council.

ARTICLE VI
Administrative Organization

§ 3-21. Departments. [Amended 5-23-2000 by Ord. No. 00-19; 6-15-2004 by Ord. No. 04-33; 1-8-2008 by Ord. No. 07-64; 12-27-2012 by Ord. No. O-12-70; 12-16-2025 by Ord. No. O-25-57]

There shall be the following administrative departments under the direct administrative control of the Manager:

- A. Office of the Manager.
- B. Department of Finance.
- C. Department of Police.
- D. Department of Fire.
- E. Department of Community Services.
- F. Department of Health and Human Services.
- G. Department of Planning and Development.
- H. Department of Recreation and Cultural Affairs.
- I. Department of Administration, Code Enforcement and Environmental Affairs.
- J. Department of Water and Sewer Utilities.
- K. Montclair Parking Utility.
- L. Township of Montclair Clary Anderson Arena Utility.
- M. Department of Sustainability.
- N. Department of Complete Streets.

§ 3-22. Organization.

The internal organization of each department shall be recommended by the director of the department, approved by the Manager and adopted by resolution of the Council. Any planning for changes in personnel strength or in classification or pay of employees shall require approval of the Council by resolution.

§ 3-23. Allocation of functions.

The Council shall determine the allocation of all functions of government among the departments. In the event of any dispute, an appeal may be made to the Council, which shall make a final determination.

ARTICLE VII
Office of the Manager

§ 3-24. Chief administrative official; qualifications; office organization. [Amended 5-23-2000 by Ord. No. 00-19]

- A. The chief executive and administrative official of the Township of Montclair shall be the Manager. The Manager shall, prior to appointment, be qualified in accordance with N.J.S.A. 40:69A-92. The Manager shall have the authority to appoint Deputy Managers with functions to be determined by the Manager.
- B. Within the office of the Manager, there shall be the following functions:
- (1) Budget.
 - (2) Human resources.
 - (3) Data processing/information systems.
 - (4) Civil defense and disaster control.

§ 3-25. Annual budget.

The Manager shall prepare the annual budget and maintain continuing review and analysis of budget operations, work programs and costs of municipal services.

§ 3-26. Human resources program. [Amended 5-23-2000 by Ord. No. 00-19]

The Manager shall establish and maintain a comprehensive human resources program, including recruitment, classification, compensation, organization design, promotion, benefits administration, labor relations, employee training and development and affirmative action and related elements, which shall be approved by Council.⁴

§ 3-27. Purchasing system.

The Manager shall establish and maintain a centralized purchasing system.

§ 3-28. Civil Defense and Disaster Control Director.

The Manager shall be the Civil Defense and Disaster Control Director.

4. Editor's Note: See Ch. 48, Personnel Regulations.

ARTICLE VIII
Department of Finance

§ 3-29. Director; qualifications. [Amended 5-29-1990 by Ord. No. 90-31]

The Department of Finance shall be headed by a Director who shall be qualified by education and experience and shall be deemed the Chief Financial Officer of the Township.

§ 3-30. Functions.

The Department shall perform all appropriate functions associated with:

- A. Billing and collection of all revenues and taxes.
- B. Budgetary accounting, fiscal control and reporting.
- C. Custody, investment and disbursement of Township moneys.
- D. Assessment of real estate for tax purposes.⁵
- E. Purchasing system. [Added 5-23-2000 by Ord. No. 00-19]

§ 3-31. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

5. Editor's Note: Former Subsection 6-30E, Data processing, which immediately followed this subsection, was deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE IX
Department of Police⁶

§ 3-32. Chief; qualifications.

The Department shall be headed by a Chief who shall be qualified by education and experience.

§ 3-33. Functions. [Amended 9-30-1980 by Ord. No. 80-56]

The Department shall perform or supervise all appropriate functions associated with:

- A. Enforcement of the laws of the state and the ordinances of the Township, preservation of public peace and protection of persons and property.
- B. Traffic enforcement.
- C. Animal control, where applicable. [Amended 5-23-2000 by Ord. No. 00-19]
- D. Police and ambulance communications systems.
- E. Custodial maintenance of police facilities.⁷

§ 3-34. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

6. Editor's Note: See also Ch. 51, Police Department.

7. Editor's Note: Former Subsection F, pertaining to the supervision of code enforcement in housing, environmental sanitation and fire, which immediately followed this subsection, was repealed 6-15-2004 by Ord. No. 04-33.

ARTICLE X
Department of Fire⁸

§ 3-35. Chief; qualifications.

The Department shall be headed by a Chief who shall be qualified by education and experience.

§ 3-36. Functions. [Amended 9-30-1980 by Ord. No. 80-56]

The Department shall perform or supervise all appropriate functions associated with:

- A. Fire fighting.
- B. Fire prevention.
- C. Rescue services in cooperation with any organized rescue squad.
- D. Communication systems.
- E. Custodial maintenance of fire facilities.

§ 3-37. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

8. Editor's Note: See also Ch. 27, Fire Department.

ARTICLE XI

Department of Community Services**[Amended 9-30-1980 by Ord. No. 80-56; 6-15-2004 by Ord. No. 04-33]****§ 3-38. Director; qualifications.**

The Department shall be headed by a Director who shall be qualified by education and experience.

§ 3-39. Functions. [Amended 1-8-2008 by Ord. No. 07-64]

The Department shall perform or supervise all appropriate functions associated with:

- A. Central engineering services.
- B. Maintenance, construction and reconstruction of streets, roads, storm sewers, drainage and parking facilities.
- C. Maintenance of automotive equipment.
- D. Repair and maintenance of traffic signals and installation, repair and maintenance of signs and street markings.
- E. Refuse collection, recycling and disposal and leaf collection.
- F. Custodial, maintenance and repair of public facilities and other public buildings.
- G. Street leaf and snow removal.
- H. Park and public grounds development and maintenance.
- I. All public tree planting, care and removal.
- J. Enforcement of construction codes and subcodes. **[Added 1-24-2017 by Ord. No. O-16-053]**

§ 3-40. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XIA

Department of Administration, Code Enforcement and Environmental Affairs
[Added 6-15-2004 by Ord. No. 04-33]

§ 3-40.1. Director; qualifications.

The Department shall be headed by a Director who shall be qualified by education and experience.

§ 3-40.2. Functions.

The Department shall perform or supervise all appropriate functions associated with:

- A. The administration of a centralized system of risk management, liability exposure control, and damage claims control.
- B. Enforcement of codes adopted by the Township related to housing and property maintenance, environmental sanitation, and quality of life.
- C. A centralized system of promoting environmentally responsible practices in municipal operations, as well as supporting and promoting such practices by other local public entities and throughout the community by private businesses, organizations and citizens.
- D. Such other administrative or centralized services as may be assigned by the Township Manager.

§ 3-40.3. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XII

Department of Health and Human Services**§ 3-41. Director; qualifications.**

The Department shall be headed by a director who shall be qualified by education and experience.

§ 3-42. Functions. [Amended 9-30-1980 by Ord. No. 80-56; 3-15-1983 by Ord. No. 83-9]

The Department shall perform or supervise all appropriate functions associated with:

- A. Public health services.
- B. Public health nursing and clinics.
- C. Local public assistance.
- D. Office of Senior Citizen Affairs.
- E. Vital statistics.
- F. Office of Youth Services.
- G. Section 8 housing. [Added 5-23-2000 by Ord. No. 00-19]

§ 3-43. Division of Welfare. [Added 3-15-1983 by Ord. No. 83-9]

There shall be a Division of Welfare within the Department of Health and Human Services.

- A. The Division of Welfare shall carry on its duties and exercise its powers pursuant to N.J.S.A. 44:8-114 et seq.
- B. The Division of Welfare shall be headed by a Director of Welfare who shall hold office for a term of five years from the date of appointment and shall be paid such salary as may be provided by ordinance. In case of vacancy in the office of Director of Welfare, a temporary or Acting Director may be appointed to serve for not more than 90 days.
- C. The Director of Welfare shall exercise the powers and duties pursuant to N.J.S.A. 44:8-118 and shall:
 - (1) Administer laws and ordinances relating to the relief of the needy.
 - (2) Provide related social services, such as domestic relations counseling, indigent burials and other public welfare activities.
 - (3) Cooperate with the Township institutions in the certification of medically indigent patients for care and treatment.
- D. All ordinances or parts of ordinances inconsistent with the provisions of this section be and the same are hereby repealed. The Local Assistance Board previously created pursuant to provisions of Title 44 of the New Jersey Statutes Annotated is hereby abolished.

§ 3-44. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XIII
Department of Planning and Development

§ 3-45. Director; qualifications.

The Department shall be headed by a Director who shall be qualified by education and experience.

§ 3-46. Functions. [Amended 9-30-1980 by Ord. No. 80-56; 5-23-2000 by Ord. No. 00-19; 1-24-2017 by Ord. No. O-16-053]

The Department shall perform or supervise all appropriate functions associated with:

- A. Professional services to the Planning Board, Board of Adjustment and Historic Preservation Commission.
- B. Economic and community development planning.
- C. Code enforcement, limited to zoning.
- D. Grant application.

§ 3-47. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XIV

Department of Recreation and Cultural Affairs

[Amended 9-30-1980 by Ord. No. 80-56; 2-20-1990 by Ord. No. 90-10; 6-15-2004 by Ord. No. 04-33]

§ 3-48. Director; qualifications.

The Department shall be headed by a Director who shall be qualified by education and experience.

§ 3-49. Functions.

The Department shall perform or supervise all appropriate functions associated with:

A. Development and administration of comprehensive recreational and cultural programs.

§ 3-50. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XIVA

Department of Water and Sewer Utilities

[Added 1-8-2008 by Ord. No. 07-64; amended 11-29-2016 by Ord. No. O-16-046; 12-16-2025 by Ord. No. O-25-58]

§ 3-50.1. Composition; Director; qualifications.

The Department of Utilities shall consist of the Water Bureau and the Sewer Utility. The head of the Department shall be a Director who shall be qualified by education and experience. Unless separate appointments shall be made by the Township Manager as authorized by ordinance adopted by the Township Council, the Director of the Department shall also fulfill the responsibilities of Superintendent of the Water Bureau and Superintendent of the Sewer Utility and shall carry out the duties and functions of those positions as set forth herein and as assigned by the Township Manager.

§ 3-50.2. Functions.

The Department shall have the following duties and responsibilities:

- A. To operate and maintain the Township's water supply and distribution system; maintain, repair, test and set water meters; maintain service maps and records; install and repair water mains, service connections, valves and appurtenances; and install, maintain and service all fire hydrants in the Township;
- B. To operate and maintain the Township's sanitary sewer system, including all collector and interceptor sewers, sewage pumping stations and all other sanitary sewer installations, and install and repair sewer mains, lines and appurtenances;
- C. To work with the Department of Finance to facilitate billing and collection of water and sewer accounts;
- D. To perform all other duties set forth in other ordinances regulating the Township's water and sewer services, and to perform all other duties as directed by the Township Manager.

ARTICLE XIVB

Township of Montclair Clary Anderson Arena Utility
[Adopted 7-22-2025 by Ord. No. O-25-24]**§ 3-50.3. through § 3-50.4 (Reserved)****§ 3-50.5. Establishment.**

There is hereby created under the terms of this ordinance a public utility for the purpose of managing the ongoing operation, maintenance, repair and improvement of the Clary Anderson Arena in the Township of Montclair, including any programs or procedures the Township deems advisable or necessary in connection therewith. For budgetary and accounting purposes, this utility shall be a separate entity, having its own separate account and its own separate property, whether it be real, personal, or mixed.

§ 3-50.6. Official name.

The name by which the Utility shall be known is the "Township of Montclair Clary Anderson Arena Utility," and hereinafter the "Utility."

§ 3-50.7. Functions.

It shall be the function of the Utility to: budget and account for the ongoing operation, maintenance, repair and improvement of the Clary Anderson Arena; to preserve, care for, lay out, construct, maintain, improve and operate the lands, buildings, and facilities used in connection with the Arena; to construct, reconstruct, alter, provide, renew and maintain buildings or other structures and equipment and provide for the care, custody and control thereof in the operation of the Utility; to raise money necessary to pay for the lands, rights or interest therein acquired in connection with the Arena, if any, and for improving and equipping the same; to pay or make provision for the payment of the reasonable expenses in each fiscal year of the Utility; to pay to those persons entitled thereto the interest and principal on notes and bonds of the Utility, and to deposit and accumulate reserve funds or reserves. The Utility shall also create standard operating procedures for all employees assigned to the Utility.

§ 3-50.8. Governing regulations.

The Utility shall be governed by the ordinances, the Township Code, and the resolutions adopted by the Mayor and Council and by administrative directives.

§ 3-50.9. Financial affairs.

The financial affairs of the Utility shall be governed in accordance with the statutes applying to the financial affairs of the municipality and utilities in general and shall be subject to the oversight of the Chief Financial Officer of the Township.

§ 3-50.10. Acquisition of property.

The Utility may, from time to time, acquire such real property as may be authorized by the Mayor and Council by duly adopted ordinances according to the laws of the State of New Jersey.

§ 3-50.11. Appointment of certain employees, salaries and compensation.

The supervision of the Utility shall be overseen by the Township via the Township Manager, and it is

anticipated and expected that the Township, through a fair and open bid process, may appoint and contract with a third-party operator with respect to the operation and management of the Arena (the "Operator"), and in such instance, the Operator shall be responsible for the hiring and oversight of all necessary Arena employees in accordance with any applicable proposal and agreement ultimately entered into by the Township and said Operator. If applicable, portions of salaries of any existing Township employees may be pro-rated based on the amount of time spent on arena-related operations compared to the employees' full-time Township responsibilities.

§ 3-50.12. Utility charges.

The Utility shall have authority to charge and collect monies for the use of the Utility's facilities, whether they be user charges, rental fees, lease payments, concession fees/revenues and any and all other revenues or income streams contemplated under or received in connection with the operating contract ultimately entered into by the Township and any Operator, and to use these monies to defray the cost of acquisition of lands, buildings and facilities, rights and interests therein, to equip the facilities, to pay the Utility's current expenses and to pay the interest and principal on notes and bonds all in accordance with such duly adopted ordinances and/or resolutions of the Mayor and Council. The Utility shall provide monthly reports to the Mayor and Council, the Township Manager, and the Chief Financial Officer, which monthly reports shall include a statement of revenues and expenses for the month being reported. The terms of any contract entered into by the Township and any Operator shall be deemed incorporated herein by reference.

ARTICLE XIVC
Department of Sustainability
[Added 12-16-2025 by Ord. No. O-25-59]

§ 3-50.13. Purpose and intent.

It is the purpose and intent of this article to establish a Department of Sustainability within the Township of Montclair to:

- A. Develop and coordinate the implementation of policies and programs that promote environmental protection, energy conservation, climate action, and sustainable development.
- B. Integrate sustainability goals and practices into Township operations, land use planning, public education, and community partnerships.
- C. Serve as a central point of coordination for sustainability initiatives across all Township departments and agencies.
- D. Identify, pursue, and manage grants and external funding opportunities to support municipal and community sustainability efforts.
- E. Foster the resilience, health, and well-being of the Montclair community for current and future generations.

§ 3-50.14. Creation.

- A. There is hereby created in the Township government a Department of Sustainability, headed by the Director of Sustainability.
- B. The Department of Sustainability shall be part of the Township's executive branch and report to the Township Manager or their designee.

§ 3-50.15. Powers and duties.

The Department of Sustainability shall have the following powers and duties:

- A. Policy and program development. Develop, recommend, and coordinate the implementation of policies, programs, and initiatives to advance the Township's sustainability goals.
- B. Sustainability planning. Create, update, and disseminate periodic sustainability plans for the Township. These plans shall include metrics and indicators for municipal and community-wide sustainability goals, which may include, but are not limited to:
 - (1) Energy use and conservation;
 - (2) Greenhouse gas emissions reductions;
 - (3) Air and water quality improvements;
 - (4) Climate change adaptation and resilience planning;
 - (5) Solid waste reduction and recycling;
 - (6) Sustainable land use and development practices;

- (7) Enhancement of public tree canopy and green spaces;
- (8) Access to local, healthy food systems.
- C. Monitoring and reporting. Develop and publish reports describing the Township's sustainability goals, programs, and progress relative to established metrics and indicators.
- D. Departmental coordination. Work with all Township departments, boards, and commissions to integrate sustainability considerations into their operations, capital planning, procurement practices, and strategic goals.
- E. Community outreach and education. Promote public awareness, education, and engagement on environmental and sustainability topics through programs, campaigns, and partnerships with schools, nonprofits, and community organizations.
- F. Grant management. Identify, pursue, and manage grants and other external funding sources to support sustainability projects and initiatives.

§ 3-50.16. Divisions and staff.

Personnel assigned to the Department may include clerical, operational, supervisory and managerial positions as deemed necessary within the budgetary limits established by the Council.

§ 3-50.17. Director of Sustainability.

There is hereby created the office of Director of the Department of Sustainability.

- A. The Director shall be appointed by the Township Manager.
- B. The Director shall serve at the pleasure of the Township Manager and in accordance with applicable Township policies and New Jersey statutes.
- C. The Director shall be the chief executive officer of the Department and shall be responsible for its efficient operation and administration.
- D. The Director shall be qualified by education and experience.

§ 3-50.18. Transfer of property, records, and appropriations.

All property, records, files, materials, and appropriations used by any existing offices, programs, or staff whose functions are absorbed into the Department of Sustainability shall be transferred to and made available for use by the Department.

§ 3-50.19. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XV

Montclair Parking Utility**[Added 12-16-2025 by Ord. No. O-25-60]****§ 3-50.20. Composition; Director; qualifications.**

The head of the Department shall be the Director who shall be qualified by education and experience. Unless separate appointments shall be made by the Township Manager as authorized by ordinance adopted by the Township Council, the Director of the Department shall also fulfill the responsibilities of Superintendent of the Parking Utility and shall carry out the duties and functions of this position as set forth herein and as assigned by the Township Manager.

§ 3-50.21. Functions.

It shall be the function of the Utility to budget and account for the parking operations undertaken by the Township. The Department shall be to preserve, care for, lay out, construct, maintain, improve and operate lands, buildings, and facilities used for the provision of public parking and the enforcement of the Township's laws and regulations concerning parking; to construct, reconstruct, alter, provide, renew and maintain buildings or other structures and equipment and provide for the care, custody and control thereof in the operation of the Utility; to raise money necessary to pay for the lands, rights or interest therein acquired for parking activities, and for improving and equipping the same; to pay or make provision for the payment of the reasonable expenses in each fiscal year of the Utility; to pay to those persons entitled thereto the interest and principal on notes and bonds of the Utility, and to deposit and accumulate reserve funds or reserves. The Department shall have the following duties and responsibilities:

§ 3-50.22. Governing regulations.

The Utility shall be governed by the ordinances, the Administrative Code, and the resolutions adopted by the Township Council and by administrative directives.

§ 3-50.23. Financial affairs.

The financial affairs of the Utility shall be governed in accordance with the statutes applying to the financial affairs of the municipality and utilities in general.

§ 3-50.24. Acquisition of property.

The Utility may, from time to time, acquire such real property as may be authorized by the Township Council by duly adopted ordinances according to the laws of the State of New Jersey.

§ 3-50.25. Utility charges.

The Utility shall have authority to charge and collect monies for the use of the Utility's facilities whether they be user charges, rental fees, or lease payments, and to use these monies to defray the cost of acquisition of lands, buildings and facilities, rights and interests therein, to equip the facilities, to pay the Utility's current expenses and to pay the interest and principal on notes and bonds all in accordance with such duly adopted ordinances and/or resolutions of the Township Council. The initial rates and fees shall be as currently on file with the Department of Finance.

§ 3-50.26. Organization.

The Department shall be organized pursuant to plan approved as provided in Article VI, § 3-22.

ARTICLE XVI
Nondepartmental Boards and Agencies

§ 3-51. Intent.

The Montclair tradition is characterized by its diverse population. The pluralism of its people, working together for the common good, has allowed Montclair to serve as a model community. It is the intent of this code to ensure that the various nondepartmental boards and agencies continue to have a broad-based pluralistic character.

§ 3-52. Enumeration. [Amended 9-30-1980 by Ord. No. 80-56]

A. The nondepartmental boards and agencies shall be: **[Amended 5-23-2000 by Ord. No. 00-19]**

- (1) Free Public Library.
- (2) Planning Board.
- (3) Board of Adjustment.
- (4) Civil Rights Commission.
- (5) Youth Advisory Board.
- (6) Joint Capital Improvement Advisory Committee.
- (7) Recreation Advisory Committee.
- (8) Montclair Environmental Advisory Committee.
- (9) Business Property Maintenance Committee.
- (10) Board of School Estimate.
- (11) Community Relations Board.
- (12) Historic Preservation Commission.
- (13) Cable Television Committee.
- (14) Health and Human Services Advisory Committee.
- (15) Montclair Community Intervention Alliance.
- (16) Parking Advisory Committee.
- (17) Senior Citizen Advisory Committee.
- (18) Handicapped Advisory Committee.

B. They shall be continued in accordance with pertinent law and ordinance.

§ 3-53. Creation of other nondepartmental boards and agencies.

The Council may create such other nondepartmental boards and agencies as it may deem desirable.

§ 3-54. Nonstatutory boards, agencies and commissioners.

Nonstatutory boards, agencies and commissioners shall be advisory to the Council, the Manager and/or Township departments as appropriate and shall be provided staff assistance, with the approval of the Manager, when available within appropriated funds. A member of the Council may be appointed to each advisory board.

ARTICLE XVII
General Provisions

§ 3-55. Duties upon termination of employment.

Every officer or employee shall, upon termination, deliver forthwith to his or her successor or, if there is no successor, to the Manager, all moneys, papers, books, memorandums, accounts and data pertaining to his or her office.

§ 3-56. Devotion of time to duties required.

Every officer and employee whose compensation is established on a full-time basis shall devote his or her entire time during business hours to the duties of the office.

ARTICLE XVIII
Transitional Provisions

§ 3-57. Transfer of employees.

All employees who are in the service of the Township on the effective date of this code are transferred to the appropriate departments to which their respective functions, powers and duties have been herein transferred. They shall not by such transfer be adversely affected in seniority, pension, promotion or salary rights.

§ 3-58. Transfer of records.

Except as otherwise provided herein, all records and property of the Township are transferred to the respective departments to which the various functions are assigned by this code.

ARTICLE XIX
Code of Ethics
[Added 5-1-1984 by Ord. No. 84-18]

§ 3-59. Legislative intent.

The Township Council hereby finds and declares that municipal office and employment are a public trust; that the vitality and stability of representative municipal government depend upon the public's confidence in the integrity of its elected and appointed representatives; that whenever the public perceives a conflict between the private interests and the public duties of a municipal government officer or employee, that confidence is imperiled; that the municipal government has the duty to provide its citizens with standards by which they may determine whether or not public duties are being faithfully performed and to apprise its officers and employees of the behavior which is expected of them while conducting their public duties; and that it is the purpose of this article to provide a method of assuring that such standards of ethical conduct shall be clear, consistent, uniform in their application and enforceable and to provide municipal officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

§ 3-60. Definitions.

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

EMPLOYEE — Any person employed by the Township of Montclair or its utilities and listed on the payroll on a full-time, part-time or temporary basis.

FINANCIAL INTEREST — Any interest which shall yield directly or indirectly, a monetary or other material benefit, other than the duly authorized salary or compensation for services to the Township, to the official or to any person employing or retaining the services of the official.

MUNICIPALITY — The Township of Montclair.

OFFICIAL — Any person, other than a Township employee, elected, appointed or retained by the Township, whether paid or unpaid and whether full-time or part-time.

PERSONAL INTEREST — Any interest arising from blood or marriage relationships or from close business association.

PUBLIC BODY — Any agency, board, body, commission, committee, department or office of the Township of Montclair having more than just advisory powers.

§ 3-61. Fair and equal treatment.

- A. Impartiality. No official or employee shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
- B. Use of public property. No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the personal convenience or the private advantage of himself/herself or any other person. This rule shall not be deemed to prohibit an official or employee from requesting, using or permitting the use of such publicly owned or publicly supplied property, vehicle, equipment, material, labor or service which it is the general practice to make available to the public at large or which are provided as a matter of stated public policy for the use of officials and employees in the conduct of official business.

- C. Treatment of citizens. All officials and employees shall treat all citizens with courtesy, impartiality, fairness and equality under the law.

§ 3-62. Disclosure of information.

Every official serving on a committee, board or council subject to the Open Public Meetings Act,⁹ and full-time employees shall file a statement with the Municipal Clerk disclosing the following information:

- A. The address of any real property located in Montclair in which the official or spouse has an ownership interest.
- B. The name and address of any business corporation which does business in or owns real property in Montclair in which the official or spouse owns 10% or more beneficial interest.

§ 3-63. Conflicts of interest.

- A. Disclosure and disqualification. Whenever the performance of his/her duties shall require any official, advisor or employee to deliberate, act or vote on any matter involving his/her own financial or personal interest, he/she shall publicly disclose the nature and extent of such interest and disqualify himself/herself from participating in public or private deliberations or voting and shall not take any action in his/her capacity as a Township official, advisor or employee relating to such matter.
- B. Representation of private persons. No official or employee shall appear as an attorney on behalf of or represent any private person other than himself/herself before any public body in the Township of Montclair.
- C. Gifts and favors. No official or employee shall accept any gift, whether in the form of money, thing, favor, loan or promise, intended to influence any official action.
- D. Confidential information. No official, advisor or employee shall use or permit the use of any confidential information to advance the financial interest of himself/herself or any other person or entity or to the detriment of the financial interests of the Township.
- E. Appearance before boards and commissions. **[Added 11-8-2012 by Ord. No. O-12-59; amended 3-28-2017 by Ord. No. O-17-014]**
- (1) No member of a board or commission with more than advisory powers concerning an application or appearance may preside or participate in public or private deliberations or voting with regards to that application or appearance in which that member has an ownership interest, has a financial interest, or is an employee of an entity that is appearing before that board or commission in any capacity.
- (2) Any member whose participation in an application or appearance would violate Subsection E(1) of this section must disqualify himself/herself from participating in public or private deliberations or voting and shall not take any action in his/her capacity as a board member relating to such matter. The disqualified member shall not be present during the portion(s) of a meeting in which the member would be in violation of Subsection E(1) of this section. The meeting minutes shall identify the disqualified member, the reason for disqualification, and indicate the time that the member left the meeting and subsequently returned.
- (3) Any member who has been required to disqualify himself/herself from participating in public or

9. Editor's Note: See N.J.S.A. 10:4-6 et seq.

private deliberations, voting, or taking any action in his/her capacity as a board member relating to such matter, pursuant to Subsection E(2), on more than two occasions during the calendar year shall resign from membership on that board effective 30 days from the date that the third disqualification arises.

§ 3-64. Political activity.

A municipal officer or employee shall not:

- A. Use his/her official authority or influence for the purpose of interfering with the result of an election or nomination for office; or
- B. Directly or indirectly coerce, attempt to coerce, command or advise a state, county or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

§ 3-65. Complaint procedure.

Upon the complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this article, the Council, in the case of an official, and the Manager, in the case of an employee, shall conduct a full investigation to determine whether there are sufficient facts supportive of the complaint to warrant further action.

§ 3-66. Application of other laws.

None of the provisions of this policy shall operate or be construed to violate any state statutes or valid collective bargaining agreements. Such statutes and agreements containing provisions which are contrary to this policy shall not be affected thereby, but the provisions of this policy shall remain effective and be applicable to all officials, advisers and employees not governed by such contrary provisions or state statutes or collective bargaining agreements.

ARTICLE XX

Defense and Indemnification**[Added by the Mayor and Council of the Township of Montclair 4-12-2023 by Ord. No. O-23-14]****§ 3-67. Definitions.**

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

EMPLOYEE — Any officer or employee of the Township of Montclair, whether elected or appointed, except employees of the Township Police Department or Fire Department entitled to a defense or indemnification under N.J.S.A. 40A:14-28 and 40A:14-155.

LEGAL ACTION OR PROCEEDING — Any pending, threatened or completed civil, criminal, administrative or arbitral action, suit or proceeding, and any appeal therein and any inquiry or investigation which could lead to the action, suit or proceeding.

§ 3-68. Township Attorney's duty to defend.

Except as provided below in § 3-69, the Township Attorney shall provide for the defense of any legal action or proceeding against an employee arising out of an act or omission within the scope of employment or authority, provided the employee:

- A. Requests a legal defense, in writing, and provides to the Township Attorney any summons, complaint, process, notice, demand, or pleading; and
- B. Cooperates with the Township Attorney in his or her defense.

§ 3-69. Grounds for refusal to provide defense.

- A. The Township Attorney may refuse to provide for the defense of a legal action or proceeding against an employee if he or she determines that:
 - (1) The act or omission was not within the scope of employment or authority;
 - (2) The act or omission was one of fraud, actual malice, willful misconduct or bad faith;
 - (3) The employee has been charged or indicted in connection with an act or omission that would constitute a crime or offense under N.J.S.A. 2C, federal criminal law or an act committed in another state that would constitute a crime or offense under N.J.S.A. 2C, except that an employee may be entitled to reimbursement of the costs of defending any such criminal action against the employee, provided that the criminal proceeding has been dismissed or results in a final disposition in favor of the employee;
 - (4) The defense would create a conflict of interest between the Township and the employee;
 - (5) The employee has failed to cooperate fully with the defense;
 - (6) The employee failed to request a legal defense; or
 - (7) The legal action or proceeding was brought by the Township against the employee, including any disciplinary proceeding.
- B. Under circumstances where the factual predicate for a legal action or proceeding against an employee cannot be ascertained with certainty, the Township Attorney may, in the exercise of his or her

discretion, provide for the defense of a legal action or proceeding against an employee under a reservation of rights. If the Township Attorney later determines that the employee is not entitled to a legal defense at the Township's expense, he or she shall so notify the employee, in writing, at which point the Township's obligation to provide a defense for the employee shall cease.

§ 3-70. Methods of providing defense.

- A. The Township Attorney may at his or her option provide for legal defense of an employee by:
 - (1) Assigning the defense to an attorney on his or her staff;
 - (2) Engaging an independent attorney selected by the Township Attorney;
 - (3) Reimbursing the employee for reasonable attorney's fees expended or obligated to be expended by such employee in the defense of the action; or
 - (4) Asserting the Township's right to a defense under any appropriate insurance policy which requires the insurer to provide the defense.
- B. No employee shall be reimbursed for the expenses of a legal defense unless the Township Attorney has agreed, in writing, to the amount of reimbursement, which includes hourly rates and expenses, before the employee incurs any expenses in his or her defense.
- C. All costs of defense and legal fees to be provided herein shall be calculated at the Township reasonable prevailing fees.

§ 3-71. Indemnification of employee.

- A. Whenever the Township Attorney is required to provide for the defense of any legal action or proceeding against an employee, the Township shall pay or reimburse the employee for:
 - (1) Any bona fide settlement of the action approved by the Township Attorney and the Township Council.
 - (2) Any judgment against the employee.
- B. In addition, in any case where the Township would be required to provide a defense under this article, the Township shall indemnify the employee against any judgment or settlement to the extent not provided by such insurance.
- C. Nothing in this article shall authorize the Township to pay punitive or exemplary damages assessed against an employee or any damages resulting from the commission of a crime, actual malice, actual fraud or willful misconduct.

§ 3-72. Additional provisions.

In addition to the provisions hereof, all employees shall be entitled to defense and indemnification as provided in N.J.S.A. 59:10-1 et seq. and N.J.S.A. 59:10A-1 et seq.

Chapter 7**DIVERSITY INCLUSION PROGRAM**

[HISTORY: Adopted by the Council of the Township of Montclair 6-21-2022 by Ord. No. O-22-10.¹⁰ Amendments noted where applicable.]

§ 7-1. Goals established; attainment; allotment; Diversity Inclusion Program (DIP) contracts.

- A. Pursuant to N.J.S.A. 40A:11-41, the Township of Montclair hereby establishes minority business enterprise (MBE), veterans' business enterprise, disability-owned business enterprise (DOBE), LGBTQ business enterprise and women's business enterprise (WBE) a Diversity Inclusion Program as a means of achieving the goals herein adopted.
- B. There is hereby established a goal of awarding no less than 20% of the Township contracts to minority-owned businesses for the purchase of goods and services. In determining compliance with the 20% goal, the aggregate cost of all such contracts within a fiscal year shall be considered.
- C. The goal of 20% for minority-owned business, veteran-owned, LGBTQ-owned, disability-owned and women-owned business participation in Township contracts for the purchase of goods and services may be attained through direct contracts with minority business enterprises, veterans' business enterprises, disability-owned business enterprise, LGBTQ, and women's business enterprises; requiring nonminority, nonwomen, nondisabled, nonveteran and non-LGBTQ business enterprises to subcontract a portion of their total contracts to minority, veterans', disabled, LGBTQ, or women's business enterprises; or joint ventures.
- D. The percentage of the dollar value of the Township's total procurement to be filled by means of the DIP, and the process for achieving the same shall be determined by the Affirmative Action Officer after review by the Township Manager. By February 1 of each year, the Affirmative Action Officer shall meet with the various department heads, Chief Financial Officer (CFO) and the Law Department to determine what aggregate procurements are to be made by the Township and what contracts for goods, equipment, construction, or services shall be designated for the MBE, veterans' business enterprise, LGBTQ business enterprise, DOBE and WBE DIP members. The Manager shall make a report to the Township Council indicating the goods and contracts to be included in that fiscal year.
- E. "DIP contracts" shall mean a contract for goods, equipment, construction, or services which is designated as a contract for which bids are invited and accepted only from qualified minority business enterprises, veterans' business enterprises, disability-owned business enterprises, LGBTQ business enterprises, and qualified women enterprises, as appropriate; a portion of a contract when that portion has been so designated; or any other purchase or procurement so designated.

§ 7-2. Standards of eligibility; definitions.

- A. A business may be eligible as a minority business, veterans' business, disabled business, LGBTQ business, a women business, or any combination of the two.
- B. In order to be eligible as a minority-owned business, veteran-owned business, disability-owned business, LGBTQ-owned business or a women-owned business, a business must both have its principal place of business in New Jersey and be independently owned and operated.

10. Editor's Note: This ordinance repealed former Ch. 7, Business Set-Aside Program, adopted 6-28-1988 by Ord. No. 88-45 (Ch. 9 of the 1979 Code), as amended.

- (1) For purposes of this chapter, a business shall be deemed to have its principal place of business in New Jersey:
 - (a) When it has been either incorporated or registered to do business in New Jersey; and
 - (b) When either 51% or more of its employees work in New Jersey, as evidenced by the payment of New Jersey unemployment taxes, or 51% or more of its business activities take place in New Jersey, as evidenced by its payment of income or business taxes; if the business has been in operation for one year or more.
 - (2) For purposes of these rules, a business shall be deemed independently owned and operated if its management is responsible for both its daily and its long-term operation and if its management owns at least 51% interest in the business.
- C. In order to be eligible as a minority-owned business, a business must be independently owned and operated and at least 51% of which is owned and controlled by persons who are Black, Hispanic, Portuguese, Asian-American, American Indian, or Alaskan natives.
- D. In order to be eligible as a women-owned business, a business must be independently owned and operated and at least 51% of which is owned and controlled by women.
- E. In order to be eligible as a LGBTQ-owned business, a business must be independently owned and operated and at least 51% of which is owned and controlled by a person or persons who identify as part of the LGBT community (including nonbinary and gender nonconforming individuals).
- F. In order to be eligible as a veteran-owned business, a business must be independently owned and operated and at least 51% of which is owned and controlled by one or more veteran(s) or service-disabled veteran(s).
- G. In order to be eligible as a disability-owned business, a business must be independently owned and operated and at least 51% of which is owned by persons with disabilities.

§ 7-3. Registration procedures.

- A. Any business which seeks to register with the Township as a minority-owned business, women-owned business, LGTBQ-owned business, veteran-owned business, or disability-owned business must provide a certification from the State of New Jersey certifying diversity ownership to the Affirmative Action Officer. If a State of New Jersey certification process does not exist for the particular diversity business structure, a comparable certification from a New Jersey State or nationally recognized registry may be submitted. LGTBQ-owned business may submit proof of its business listing with the National LGBT Chamber. Such certifications/proofs must be attached to a vendor registration which shall be prepared by the Affirmative Action Officer and be available from the Office of Affirmative Action and Department of Finance - Purchasing Department.
- B. From a compilation of these completed vendor registration forms, the Affirmative Action Officer shall maintain a DIP master list which shall contain the names and addresses of all eligible businesses for the DIP program. This list shall be updated and made current on, as a minimum requirement, a yearly basis.
- C. As part of its application to the Affirmative Action Officer, a business shall document its principal place of business and independent status and, as appropriate, the character of its ownership. Where available, this documentation should include appropriate forms or reports otherwise submitted to or issued by state and federal agencies, such as employee or affirmative action reports filed with the

New Jersey Department of Labor or certificates of incorporation issued by the New Jersey Department of State.

- (1) If an applicant fails to complete fully the vendor registration form or to document same, its application may be delayed or rejected.
- (2) If an applicant knowingly supplies incomplete or inaccurate information, the applicant shall be disqualified and may be subject to other penalties described in N.J.A.C. 17:12-6.8 and 12A:10-1.8.

§ 7-4. Notification requirements and procurement process.

- A. When a business is accepted by the Office of Affirmative Action as a minority-owned business, women-owned business, LGBTQ-owned business, veteran-owned business, or disability-owned business, the business will be added by the Office of Affirmative Action onto the DIP vendors lists which shall be used in determining whether the Township has fulfilled its contracting goals and shall be used in soliciting bids or contracts as part of the DIP for minority businesses, veterans' businesses, disability-owned business, LGBTQ and/or women businesses and other purchasing and contracting situations. There will be no limits to the number of businesses on the various minority business, veterans' business, disability business, LGBTQ and women business bidder's lists. Each eligible applicant will be placed on that list or those lists for which they may be qualified.
- B. When a business is accepted as a minority-owned business, veteran-owned business, disability-owned business, LGBTQ and/or women-owned business, that business may bid on contracts which are specifically determined to be a part of the DIP under this chapter.
- C. Each department shall make a good faith effort to obtain the goals established by the administration.

§ 7-5. Award standards and Affirmative Action Officer's responsibility for monitoring compliance.

- A. Any contract specifically designated for DIP businesses must be competitively bid, either through public advertising or through solicitation of formal quotations and may be awarded only if responsible bids/formal quotations from at least two qualified bidders are received.
- B. The specifications for a DIP contract shall clearly and conspicuously state that an award may go only to a business duly registered with and approved by the Office of Affirmative Action.
- C. The specifications shall further state that a bidder who is not already approved may submit a bid but then must submit a certification from the State of New Jersey or other nationally recognized registry certifying diversity ownership outlined in § 7-3A to the Office of Affirmative Action for approval as a veteran, minority, disabled, LGBTQ, or women-owned business enterprise as appropriate, no later than the bid opening date and, in order to be eligible for an award, must be approved by the Office of Affirmative Action no later than five working days after the bid-opening date. The specification shall state that if, for whatever reason, there is no approval of that bidder from the Office of Affirmative Action, no later than five working days from the bid-opening date, the Township shall reject that bid without any obligation or recourse to the bidder.
- D. The Affirmative Action Officer shall have the responsibility for approving all solicitations of bids/formal quotations prior to their offering by the Purchasing Agent. The Affirmative Action Officer shall further indicate his or her approval on all contracts entered into by the Purchasing Agent prior to their execution by the Township and/or the submission of contracts to the Municipal Council for its review and approval.

- E. All bids/formal quotations may be rejected on a DIP contract and the contract may be rebid as an ordinary contract where:
- (1) In evaluating the women, veterans, disabled, LGBTQ and/or minority business bids, the Purchasing Agent determines that acceptance of any of the bids/formal quotations would subject the Township to an unreasonable expense or to a contract otherwise unacceptable pursuant to the Township's contracting and purchasing laws and rules; or
 - (2) The Purchasing Agent does not receive at least two bids/formal quotations from qualified vendors approved as women, veterans, disabled, LGBTQ and/or minority businesses, as appropriate; and
 - (3) The minority business enterprises, veteran business enterprise, disabled, LGBTQ enterprise or women business enterprises knowingly supplied false information on the business, and the contract would not otherwise have been awarded.
- F. Immediately after rejecting all bids/formal quotations, the Purchasing Agent may, without any delay, rebid the contract as an ordinary award. Women, veterans, disabled, LGBTQ, and minority business bidders may participate in this rebidding program.

§ 7-6. Annual report.

The Affirmative Action Officer shall submit a biannual report to the Municipal Council by June 30 and December 31 of each year describing the Township's effort in attaining the DIP goals and the percentage of the dollar value of total procurements awarded under this chapter.

§ 7-7. Designation as a part of Diversity Inclusion Program (DIP).

- A. Notwithstanding the provisions of any law to the contrary, a contracting agency of a county or municipality which has established a qualified small business enterprise Diversity Inclusion Program (hereinafter DIP), Local Public Contracts Law N.J.S.A. 40A:11-1 et seq.
- B. A qualified veteran business enterprise, a qualified minority business enterprise, a qualified disability business enterprise, a qualified LGBTQ business or a qualified women's business enterprise as part of our DIP shall designate that a contract, subcontract or other means of procurement of goods, services, equipment, or construction be awarded to a qualified veteran business enterprise, a qualified minority business enterprise, a qualified disability business enterprise, qualified LGBTQ business enterprise or a qualified women's business enterprise, if a contracting agency is likely to receive bids from at least two qualified small business enterprises, qualified veteran business enterprises, a qualified disability-owned business enterprise, qualified LGBTQ business enterprise, qualified minority business enterprises or qualified women's business enterprises, as appropriate, at a fair and reasonable price.
- C. Such designations shall be made prior to any advertisement for bids, if required. Once designated, the advertisement for bids, if necessary, shall indicate that the contract to be awarded is a qualified veteran business enterprise DIP contract, a qualified disability business enterprise DIP contract, a qualified LGBTQ business enterprise DIP contract, a qualified minority business enterprise DIP contract or a qualified women's business enterprise DIP contract, as appropriate. All advertisements for bids shall be published in the designated newspapers which will provide notice thereof to qualified minority business enterprises, qualified women's business enterprises, qualified veteran-owned business enterprises, qualified disability-owned business enterprise, and qualified LGBTQ business enterprises, as appropriate, sufficiently in advance of the date fixed for receiving the bids to promote

competitive bidding but shall not be published less than 10 days' prior to that date.

§ 7-8. Diversity Inclusion Program cancellation.

- A. If the contracting agency determines that two bids from qualified veteran business enterprises, qualified minority business enterprises, qualified disability-owned business enterprises, qualified LGBTQ business enterprises, or qualified women's businesses cannot be obtained, the contracting agency may withdraw the designation of the DIP contract and resolicit bids on an unrestricted basis pursuant to the provisions of P.L. 1971, c. 198 (N.J.S.A. 40A:11-1 et seq.). The cancelled designation shall not be considered in determining the percentage of contracts awarded pursuant to Subsection C of § 7-1 of this chapter.
- B. If the contracting agency determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price, the contracting agency shall reject all bids and withdraw the designation of the DIP contract. Qualified veteran business enterprises, qualified disability-owned business enterprises, qualified LGBTQ business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, shall be notified in writing of the DIP cancellation, the reasons for the rejection and the agency's intent to resolicit bids on an unrestricted basis pursuant to the provisions of P.L. 1971, c. 198 (N.J.S.A. 40A:11-1 et seq.). The cancelled bid solicitation shall not be considered in determining the percentage of contracts awarded pursuant to Subsection C of § 7-1 of this chapter.

Chapter 8**AFFIRMATIVE ACTION REQUIREMENTS**

[HISTORY: Adopted by the Council of the Township of Montclair 3-14-2006 by Ord. No. 06-10. Amendments noted where applicable.]

§ 8-1. Contracts to include affirmative action language.

Every construction contract entered into by the Township of Montclair, and every contract for the purchase of goods and services entered into by the Township for which the consideration exceeds the threshold for public bidding established in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-3, shall include the affirmative action language required by N.J.A.C. 17:27 and set forth therein.

§ 8-2. Certification of compliance.

The Township shall require that every vendor, contractor or other firm or entity to whom a contract is awarded which falls within the criteria set forth in § 8-1 of this chapter must, within 14 days after notification of the award and prior to execution of the contract, certify compliance with the applicable affirmative action requirements of N.J.A.C. 17:27. If the vendor, contractor or other firm or entity fails to certify compliance within the required period, and the required certification is not provided within 10 days after written notice from the Township, the Township shall rescind the award and may, subject to any applicable requirements of the Local Public Contracts Law or other legal requirements, award the contract to the next lowest responsible bidder that certifies compliance with the Affirmative Action requirements of N.J.A.C. 17:27.

§ 8-3. Violation of affirmative action regulations.

If any vendor, contractor or other firm or entity awarded a contract with the Township of Montclair which falls within the criteria set forth in § 8-1 of this chapter is subsequently found to be in violation of the affirmative action regulations set forth in N.J.A.C. 17:27 or this chapter at any time during the performance of said contract, the Township shall (except in emergent circumstances affecting public health, safety or welfare) withhold all or part of the contract payments then due and owing to said vendor, contractor, firm or entity until the violation has been satisfactorily remedied and compliance has been confirmed by the Township's Affirmative Action Officer.

§ 8-4. Withholding of payment.

The Township shall also withhold payment (to the extent required by applicable law) from any contractor on a Township construction or other project where it has been determined that the contractor has failed or refused to pay a minority subcontractor (including any women's business enterprise) for work performed and accepted or for goods or services provided and accepted and where the affected subcontractor has complied with the requirements of the Municipal Mechanics' Lien Law, N.J.S.A. 2A:44-125 et seq. or the Trust Fund Act, N.J.S.A. 2A:44-148.

§ 8-5. Conflicts; severability.

In the event of any conflict or inconsistency between any provision of this chapter and the requirements of N.J.A.C. 17:27 et seq. which would render said provision illegal or unenforceable, the requirements of N.J.A.C. 17:27 et seq. shall prevail. If any section of this chapter is determined to be invalid for any reason, such determination shall not affect the validity of the remaining sections of this chapter.

§ 8-6. When effective.

This chapter shall take effect upon final adoption and publication as required by law.

Chapter 11**CIVIL RIGHTS COMMISSION**

[HISTORY: Adopted by the Council of the Township of Montclair 6-23-1992 by Ord. No. 92-21. Amendments noted where applicable.]

GENERAL REFERENCES

Affirmative action requirements — See Ch. 8.

Housing discrimination — See Ch. 190, Art. II.

§ 11-1. Findings; Commission created; membership; term; compensation.

- A. It is hereby found that prejudice and discrimination against any individual or group because of race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, gender identity or expression, disability, marital status, liability for service in the Armed Forces of the United States or nationality is inimical to democracy, the cornerstone of our American tradition and menaces peace and public welfare. To eliminate such prejudice and discrimination in Montclair, a Commission should be established through which the citizens of Montclair may be kept informed of developments in human relations and from which the elected and appointed officials and the departments of this Township may obtain advice and assistance in adopting those measures to keep peace and good order and harmony among the citizens of Montclair and to promote and ensure equality of treatment and of opportunity to all, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender identity or expression, disability, liability for service in the Armed Forces of the United States, nationality or sex or as otherwise identified by state law. **[Amended 5-23-2000 by Ord. No. 00-19; 5-23-2017 by Ord. No. O-17-019]**
- B. There is hereby created and established an advisory commission to be known as the "Civil Rights Commission" (hereinafter the "Commission"), consisting of 17 members and one alternate to be appointed for a term of three years by the Township Council, except as set forth below. One member of the Commission shall be a student from a high school located in the Township and one member shall be a Montclair State University student. The two student members shall be considered nonvoting interns and shall serve for a term of one year. The Council shall also appoint a Councilperson designee, who shall serve ex officio without vote. Other ex officio nonvoting members shall include the Board of Education, or its designee, and two other members to be appointed by the Township Manager in the recommended areas of police affairs and equal opportunity compliance. The Commission shall concern itself with alleged incidents of prejudice and discrimination as they occur and affect individuals in Montclair. The members of the Commission shall serve without compensation. No person who is a Township employee holding a managerial or policy-making position shall serve as a voting member of the Commission. All members of the Commission shall be appointed in accordance with the Township Council's operating practices and procedures for appointments to advisory boards and commissions, including the submission of written volunteer forms provided by the Township Clerk. **[Amended 2-1-2000 by Ord. No. 00-05; 6-9-2009 by Ord. No. O-022-09]**

§ 11-2. Objectives; duties.

- A. The objectives of the Commission shall be to work cooperatively with other persons to eliminate

discrimination and the result of past discrimination, to recommend ways and means of initiating and improving Township government programs designed to eliminate discrimination or to remove the effects of past discrimination, to develop programs for coordination of community efforts to address problems involving tensions in the community and to make recommendations to the Township Council for the development of policies, procedures and programs that will aid in the prevention and elimination of all types of discrimination in Montclair.

- B. In performing this function, the Commission shall strive to increase the effectiveness of these programs, to increase the fairness with which these programs are operated and to increase interdepartmental harmony in the operation of these programs.
- C. To achieve these objectives, the Commission shall:
- (1) Develop mutual understanding and respect among all racial, religious, cultural and ethnic groups in Montclair and work to prevent discriminatory practices against such groups.
 - (2) Aid in seeing that no person is deprived of equal services in this Township by reason of discrimination on account of race, creed, color, national origin, ancestry, age, gender identity or expression, disability, marital status, affectional or sexual orientation, liability for service in the Armed Forces of the United States, nationality or sex or as otherwise identified by state law. **[Amended 5-23-2000 by Ord. No. 00-19; 5-23-2017 by Ord. No. O-17-019]**
 - (3) Encourage, receive, investigate and evaluate complaints from any person of discrimination which allegedly violates law and such other complaints as it deems fall within the scope of its services and make public procedures which a person may use to complain of discrimination.
 - (4) Receive and investigate complaints of intergroup tensions and practices of discrimination and acts of prejudice against any person or group due to consideration of race, creed, color, national origin, ancestry, age, gender identity or expression, disability, marital status, affectional or sexual orientation, liability for service in the Armed Forces of the United States, nationality or sex or as otherwise identified by state law. **[Amended 5-23-2000 by Ord. No. 00-19; 5-23-2017 by Ord. No. O-17-019]**
 - (5) Confer with the Township Counsel on such complaints as appear to require legal process after initial investigation and/or failure to achieve conciliation.
 - (6) Investigate upon request or initiate investigation of alleged incidents of prejudice and discrimination and make recommendations for corrective action and coordinate community efforts toward their resolution.
 - (7) Formulate, develop and disseminate programs of community information, education materials and reports which will assist in the elimination of prejudice, intolerance, intergroup tensions and discrimination or which promote goodwill and result in better human relations.
 - (8) Assist community groups and various fraternal, service and benevolent organizations in the promotion of education campaigns devoted to the elimination of group prejudices, racial or neighborhood tensions, intolerance and discrimination.
 - (9) Cooperate with and render assistance to the Affirmative Action Officer and other branches of Township government in the area of human relations.
 - (10) Cooperate with and render assistance to county, state, federal and other governmental or private agencies in the area of human relations.

- (11) File with the Township Council an annual report of the Commission's activities. In addition, as it deems necessary, prepare and publish an annual report and such other factual reports and recommendations concerning problems relating to discrimination, racial tensions and other human relations concerns the Commission deems necessary. Copies of all such reports and recommendations shall be filed with the Township Council and Clerk.

§ 11-3. Annual budget; office space.

The Civil Rights Commission may be granted an annual budget as is reasonable and proper to enable it to carry out its responsibilities and shall have the use of adequate space and facilities for the conduct of its business.

§ 11-4. Complaints; information to be confidential.

- A. Any individual in Montclair claiming to be aggrieved by a discriminatory practice prohibited by this chapter or the State Law Against Discrimination, N.J.S.A. 10:5-1 et seq., may submit to the Civil Rights Commission a complaint, written or oral, identifying himself or herself and stating his or her belief that a discriminatory practice has been committed in Montclair. The Commission may endeavor to eliminate the alleged discriminatory practice by conference, conciliation and persuasion. However, the Commission shall refer all Township employees to the Affirmative Action Officer to initially counsel and investigate all complaints of discrimination. The counseling and investigation, process by the Township Affirmative Action Officer shall not exceed 30 calendar days. **[Amended 2-1-2000 by Ord. No. 00-05]**
- B. The Commission shall not make public, without the written consent of complainant and respondent, information concerning the efforts to eliminate a discriminatory practice.

§ 11-5. Cooperation of departments required in obtaining factual information. [Amended 2-1-2000 by Ord. No. 00-05]

The obtaining of factual information by the Civil Rights Commission in the performance of its duties under this chapter is hereby declared to be necessary to its functions. All other departments of the Township shall cooperate with the Commission, upon its request, relative to the gathering of information; provided, however, that the opinion of the Township legal counsel shall be obtained in such matters as appear to involve questions of confidentiality or liability on the part of the Township and/or the Commission.

Chapter 15**CLAIMS, PAYMENT OF**

[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. 11 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 3.

§ 15-1. Procedure for presentation and approval.

- A. Any person or firm claiming payment from the Township of Montclair shall first submit to the Township Chief Financial Officer a voucher setting forth in detail the basis for the claim and giving full particulars as to the goods supplied and/or services rendered. Such voucher shall include a certification by the claimant that same is correct in all particulars.
- B. To be considered for payment, the voucher shall have attached to it (or include) a certification by a department head or his or her duly designated representative or other township official having knowledge of the facts that the goods have been received by or the services rendered to the Township of Montclair.
- C. It shall be the duty of the Chief Financial Officer or his or her duly designated representative to audit, warrant and make recommendations on all claims, bills and demands to ascertain that proper administrative procedures have been followed and that the goods and/or services are consistent with an existing contract or purchase order.
- D. After having been audited, the voucher for such bill, claim or demand shall be included on the agenda of the next immediate formal public meeting of the governing body. The claims shall be listed systematically, without preference, and the list made available to all members of the governing body prior to formal action by that body.
- E. The governing body shall approve payment of the claims or shall state its reason for rejecting same. Any disapproved claim shall be sent to the Township Chief Financial Officer with the reason for refusal and instructions.
- F. The Municipal Clerk shall record all claims in the official minutes, together with the governing body's disposition of same. Such records shall be available for public inspection.
- G. Approved vouchers shall be sent to the Township Treasurer for disbursement. Checks shall be drawn by the Treasurer, signed by the Township Manager and countersigned by the Chief Financial Officer and Treasurer (whose signatures may be made mechanically by facsimile) and distributed by the Treasurer after proper records have been made.¹¹

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 15-2. Periodic recurring payments.

Vouchers for statutory payments, payrolls, investments and other periodic recurring payments required to be made by the Township of Montclair between formal public meetings of the governing body may be certified by the Township Chief Financial Officer and sent to the Treasurer for disbursement. All such payments shall require ratification by the governing body at the formal public meeting of the governing body next following payment.

(RESERVED)

Chapter 18

(RESERVED)

[Former Ch. 18, Contracts, which consisted of Art. I, Professional Service Contracts, adopted 10-4-2011 by Ord. No. O-11-59, was repealed 12-19-2023 by Ord. No. O-23-41. This ordinance further provided that all awards of professional service contracts with the Township of Montclair will be made in accordance with and governed by New Jersey State law, including New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the Elections Transparency Act.]

Chapter 20**COURT**

[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. 14 of the 1979 Code. Amendments noted where applicable.]

§ 20-1. Continuance of Court.

The Municipal Court for the township, known as the "Municipal Court of Montclair," as heretofore established pursuant to the provisions of Chapter 264 of the Laws of 1948, the amendments thereof and supplements thereto,¹² is hereby continued.

§ 20-2. Seal.

The Municipal Court shall have a seal which shall bear the impress of the name of the Court.

§ 20-3. Judge.

- A. There shall be a Judge of the Municipal Court, to be appointed by the Township Council for a term of three years from the date of his or her appointment and until his or her successor is appointed and qualified. He or she shall have the qualifications required by law.
- B. The Judge shall receive an annual salary as fixed and payable by ordinance. The salary shall be in lieu of all fees, costs and any other allowances whatever.¹³

§ 20-4. Administrator.¹⁴

- A. There shall be a Municipal Court Administrator and such other Deputy Municipal Court Administrators as the Judge of the Municipal Court shall designate in writing to serve temporarily in the absence of the Municipal Court Administrator.
- B. Appointments to all offices, positions or employments under this section shall be made by the Township Manager.
- C. The Administrator shall serve for a term of one year from the date of appointment and until a successor is appointed and qualified.
- D. The Administrator and Deputy Administrators shall perform such functions and duties as shall be prescribed for them by law, by the rules applicable to municipal courts and by the Judge.
- E. The salaries payable to holders of such offices or positions shall be paid in the same manner as the salaries of other officers are paid and shall be in lieu of all fees, costs and any allowances whatsoever. Such salaries shall be fixed by ordinance.

§ 20-5. Jurisdiction; powers and duties.

The Municipal Court and the Judge thereof shall have, possess and exercise all the functions, powers,

12. Editor's Note: Repealed by L. 1993, c. 293. See now N.J.S.A. 2B:12-1 et seq.

13. Editor's Note: See Ch. 55, Salaries and Compensation.

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 20-5

COURT

duties and jurisdiction conferred by the provisions of N.J.S.A. 2B:12-1 et seq. and the amendments thereof and supplements thereto or by any other law.

§ 20-6. Location, days and hours of Court. [Amended 5-23-2000 by Ord. No. 00-19]

The Municipal Court shall be held in the Court Room of the Public Safety Building. The Judge shall designate the days when sessions of the Court will be held and the hour at which the Court will be held, in accordance with the rules of court.

§ 20-7. Application for Public Defender representation; fee. [Added 11-26-1996 by Ord. No. 96-31; amended 1-14-1997 by Ord. No. 96-39; 5-8-2001 by Ord. No. 01-32]

- A. In order to obtain the services of the Public Defender, and pursuant to N.J.S.A. 2B:12-28, an application must be filed with the Municipal Court on a form designated and approved by the Administrative Office of the Courts to be provided by the township. The Municipal Judge shall make a decision as to whether a defendant is indigent after reviewing each defendant's application. This determination shall be based on whether the defendant has the present financial ability to secure competent legal representation and to provide all other necessary expenses of representation.
- B. At the time of receipt of said application form, the Municipal Court Judge shall assess an application fee in an amount no greater than \$200 upon each defendant who makes application for the service of the Public Defender. Thereafter, subsequent to a review of the application, the Municipal Court Judge may waive collection of this fee, in whole or in part, if the Judge determines, in his or her discretion, that this application fee represents an unreasonable burden on said defendant.

MONTCLAIR CODE

Chapter 21

DISCRIMINATION

**[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

**Nondiscrimination by Township Contractors
[Adopted 6-22-2021 by Ord. No. O-21-16]****§ 21-1. Equal opportunity requirements.**

All contractors bidding on contracts or doing business with the Township of Montclair shall complete the affidavit of compliance agreeing to adhere to the Township's nondiscrimination policy for contractors. The affidavit is hereby made part of this section, and the Mayor shall be the only person authorized to waive the submittal of all or any part of the affidavit of compliance.

- A. It is declared to be the policy of the Township of Montclair that any person contracting for building and construction projects or furnishing supplies or services to the Township of Montclair, and to which any funds of the Township of Montclair are expended, shall establish equal employment opportunities for all individuals so that no individual shall be excluded from employment by such person because of actual or perceived age, race, creed, color, national origin, nationality, ancestry, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, height, HIV status, familial status, religion, affectional or sexual orientation, source of income, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, political beliefs, religion, liability for service in the Armed Forces of the United States, or disability, victim of domestic violence or stalking, or weight.
- B. Any person so contracting for building and construction projects, or furnishing supplies or services to the metropolitan government, wherein any funds of the Township of Montclair may be appropriated or expended to such person, shall not subscribe to any personnel policy which permits or allows the promotion, demotion, employment, dismissal or laying off of any individual due to his actual or perceived age, race, creed, color, national origin, nationality, ancestry, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, height, HIV status, familial status, religion, affectional or sexual orientation, source of income, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, political beliefs, religion, liability for service in the Armed Forces of the United States, or disability, victim of domestic violence or stalking, or weight, or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- C. It is further declared to be the policy of the Township of Montclair that any person entering into any agreement for the use of any government property or facility with a lease term of greater than six months shall establish equal employment opportunities for all individuals so that no individual shall be excluded from employment, discharged, demoted, or refused a promotion by such person because of actual or perceived age, race, creed, color, national origin, nationality, ancestry, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, height, HIV status, familial status, religion, affectional or sexual orientation, source of income, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, political beliefs, religion, liability for service in the Armed Forces of the United States, or disability, victim of domestic violence or stalking, or weight, and to ensure compliance with all applicable laws concerning the employment of individuals with disabilities.
- D. The foregoing provisions of this section prohibiting employment discrimination on the basis of sexual orientation or gender identity shall not apply to the following: religious entities, organizations, or institutions where employment discrimination on the basis of sexual orientation or gender identity is in furtherance of the organization's religious mission or beliefs, as such prohibition is not intended to interfere with the free exercise of religion or the freedom of expressive association guaranteed by the

U.S. Constitution.

§ 21-2. Affidavit of compliance: contract requirements.

- A. The Purchasing Agent of the Township of Montclair shall include in all bid specifications or invitations to bid a provision to the effect that no contract shall be entered into for building and construction projects, or supplies, or services unless the successful bidder submits an affidavit to the Township of Montclair stating that his employment and personnel policies, standards, and practices do not permit or allow for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, sex, gender identity, or sexual orientation, and that he is not in violation of, and will not violate, any applicable laws concerning the employment of individuals with disabilities.
- B. The Purchasing Agent, or other agency of the Township of Montclair under whose jurisdiction such work is to be performed, shall include in the specifications to bidders, or in the invitations to bid, a clause prohibiting the successful bidder from discriminating against any individual due to his/her race, creed, color, national origin, sex, gender identity, or sexual orientation, and from violating applicable laws concerning the employment of individuals with disabilities.
- C. The foregoing requirements of this section pertaining to employment discrimination on the basis of sexual orientation or gender identity shall not apply to the following: religious entities, organizations, or institutions where employment discrimination on the basis of sexual orientation or gender identity is in furtherance of the organization's religious mission or beliefs, as such prohibition is not intended to interfere with the free exercise of religion guaranteed by the U.S. Constitution.

§ 21-3. Affidavit of compliance.

The affidavit of compliance required by this article shall be in substantially the following form:

The contractor agrees:

- (a) To comply with the terms of the Township of Montclair's Nondiscrimination Ordinance and contract compliance administrative policy, including but not limited to an acceptable affirmative action program, if applicable.
- (b) To post the Township of Montclair's Nondiscrimination Ordinance notice in every workplace or other location in which employees or other persons are contracted to provide services under a contract with the Township.
- (c) To provide documentation within the specified time frame in connection with any workforce verification, compliance review or complaint investigation.
- (d) To permit access to employees and work sites to Township representatives for the purposes of monitoring compliance or investigating complaints of noncompliance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services in accordance with the terms of the Township of Montclair's Nondiscrimination Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Nondiscrimination Ordinance, obligates the contractor to those terms and acknowledges that if his/her employer is found to be in violation of the ordinance, it may be subject to civil penalties and termination of the awarded contract.

Company Name

Signature of Authorized Representative Date

Print Name and Title

Address, Township, State, Zip Code

Phone/Email address

ARTICLE II

Nondiscrimination in Municipal Employment
[Adopted 6-22-2021 by Ord. No. O-21-16]

§ 21-4. Nondiscrimination policy.

In all instances of hiring, appointing and or other assignation of duties and positions, the Township of Montclair and its representatives shall not discriminate on the basis of gender, sexual orientation, gender identity, race, color, or national or ethnic origin.

ARTICLE III

Unisex Restrooms**[Adopted 6-22-2021 by Ord. No. O-21-15]****§ 21-5. Unisex restrooms.**

- A. Statement of legislative findings and policy. The municipal governing body finds and declares that practices of discrimination with respect to the use of restroom facilities because of age, race, creed, color, national origin, ancestry, marital status, sex, or gender identity or expression are matters of concern and that such discrimination not only threatens the rights and proper privileges of persons but menaces the institutions and foundations of a free democratic society. It is the policy of the municipality that all persons shall have the opportunity to use single-occupancy bathroom facilities without regard to age, race, creed, color, national origin, ancestry, marital status, sex, gender identity, or gender expression. In furtherance of that policy, this section shall be deemed an exercise of the police power of the Township of Montclair for the protection of the public health, safety and morals and for the promotion of the general welfare.

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

APPROPRIATE SIGNAGE — Signage indicating that the restroom is not restricted to a particular gender. Examples include, but are not limited to, signs with the words "all-gender restroom," "gender-neutral restroom," or "unisex restroom," or signs that use images to indicate that the restroom is accessible to all genders.

COVERED ENTITY — Any business establishment (including offices and office buildings), place of public accommodation, and municipally owned building or facility.

PLACE OF PUBLIC ACCOMMODATION — Includes, but is not limited to, the following types of services or facilities: hotels or other establishments providing lodging to transient guests; restaurants, cafeterias, lunchrooms, lunch counters or other facilities principally engaged in selling or offering for sale food for consumption on or off the premises; public restrooms; motion picture houses, theaters, concert halls, sports arenas, stadiums, or other places of exhibition or entertainment; retail stores and establishments; transportation carriers; barbershops and beauty shops; and bars, taverns or other facilities engaged in selling or offering for sale alcoholic beverages for consumption on the premises.

SINGLE-OCCUPANT RESTROOM or SINGLE-OCCUPANCY RESTROOM — Any separate private toileting facility designed for use by no more than one occupant at a time or for a family or those needing assistance, with a locking mechanism controlled by the user located on the inside of the door into the facility.

UNISEX RESTROOM — A toileting facility that is designated for use by any person, regardless of sex or gender identity.

- C. Requirements.

- (1) Any covered entity or place of public accommodation with single-occupancy restrooms shall ensure that such restrooms are not restricted to a specific sex or gender identity and shall use appropriate signage to indicate such facilities are designated for use by any person, regardless of sex or gender identity.
- (2) For purposes of complying with the requirements of this section, single-occupancy restrooms that are designated handicapped accessible can also be identified as unisex with appropriate signage for both designations.

- (3) Nothing herein shall be construed as requiring the covered entity or place of public accommodation to provide a single-occupancy restroom or to make such restroom available to the public unless otherwise required by law.
- D. Exception. A covered entity or place of public accommodation may obtain a waiver from the requirements of this section if it documents in writing to the Construction Official's satisfaction that compliance with this section would violate or conflict with the state plumbing code or other duly adopted state law.
- E. Applicability. The requirements of this section shall take effect immediately, except that existing covered entities and places of public accommodation shall have 180 days from the date of adoption of the ordinance creating this section to comply with its requirements by removing any existing signs on the exterior of single-occupant restrooms that restrict use to a single gender and replacing said signs with signs indicating use by anyone regardless of sex or gender identity.
- F. Enforcement.
- (1) During any inspection of a business or place of public accommodation by the Municipal Construction Official, a Building Inspector, Code Enforcement Official, Health Officer, Fire Inspector, or any other local official responsible for the enforcement of any of the Township's ordinances and lawfully on the premises, such inspector or official may also inspect for compliance with this section.
- (2) Upon receiving a complaint from a member of the public or employee of a covered entity or place of public accommodation, a member of the municipal construction staff shall inspect the business establishment or public accommodation to determine compliance with this section.
- G. Violations and penalties. Any person who violates any provision of this article shall, upon conviction thereof, be punished by a fine not exceeding \$2,000 as determined by the Municipal Court Judge. Each day on which a violation of this article 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.

MONTCLAIR CODE

Chapter 23

EDUCATION, BOARD OF

[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. 20 of the 1979 Code. Amendments noted where applicable.]

§ 23-1. Membership.¹⁵

The Board of Education of the Township of Montclair shall consist of seven members, each appointed by the Mayor in accordance with law.

§ 23-2. Future appointments; terms.

Present members of the Board of Education shall serve out the terms for which they were originally appointed, but future appointments shall be made in such manner as shall, as soon as possible, result in all members of said Board being appointed for terms of three years, with the terms of either three or two members expiring in each year.

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 25**ENERGY AGGREGATION**

[HISTORY: Adopted by the Council of the Township of Montclair 3-15-2022 by Ord. No. O-22-03.¹⁶ Amendments noted where applicable.]

§ 25-1. Reauthorization.

The Township hereby reauthorizes its government energy aggregation program, in accordance with the provisions of the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 et seq.

§ 25-2. Authorization to execute contracts.

The Township Manager is authorized to execute and the Township Clerk to attest to the execution of any necessary contracts, in a form acceptable to the Township.

§ 25-3. Lead agency; contract.

The Township of Montclair Council will act as lead agency of the program and, in that capacity, and consistent with applicable rules, will solicit proposals for electric generation service and energy aggregation services on behalf of Township residents, and enter into a contract for such services provided that the lowest qualified bid includes enhanced renewable energy content and has a price no higher than the prevailing price for utility-provided basic generation service.

§ 25-4. Master performance agreement.

As lead agency the Township of Montclair Council will execute a master performance agreement that obligated the participants in the program to purchase electricity at terms and conditions stated therein with a third-party supplier who has been awarded the contract by the lead agency on behalf of participating members of the program, and provided that such contract shall provide power supply with higher renewable energy content than that of PSE&G basic generation service and at prices reasonably forecast and estimated by the Township of Montclair Council to be no higher than the price charged for basic generation service by PSE&G.

§ 25-5. Validity.

The authorization provided to the lead agent shall be valid until December 31, 2025 (the "effective period"), at which time the program will be subject to renewal at the discretion of the Township of Montclair Council.

§ 25-6. Repealer.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

§ 25-7. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate,

16. Editor's Note: This ordinance superseded Ord. No. O-18-026, adopted 6-12-2018, which established the Energy Aggregation Program.

distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

FIRE DEPARTMENT

Chapter 27

FIRE DEPARTMENT

[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. 25 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department personnel regulations — See Ch. 48, Part 2.

Salaries and compensation — See Ch. 55.

Police Department — See Ch. 51.

ARTICLE I
General Provisions

§ 27-1. Definitions.

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

CHIEF — The Chief of the Fire Department of the township.

DEPARTMENT — The Fire Department of the township.

MEMBERS or MEMBERS OF THE DEPARTMENT — All regular and probationary members of the Fire Department of the township irrespective of rank or duty.

OFFICER — A member of the Department of the rank of Lieutenant or higher.

PHYSICIAN or DEPARTMENT PHYSICIAN — The Physician appointed by the township.

REGULAR MEMBER or REGULAR MEMBERS OF THE DEPARTMENT — All members of the Fire Department irrespective of rank or duty, except probationary fire fighters.

RULES AND REGULATIONS or ADMINISTRATIVE RULES AND REGULATIONS — The administrative rules and regulations promulgated by the Township Manager as provided in this article.

TOWNSHIP MANAGER — The Township Manager of the Township of Montclair.¹⁷

§ 27-2. Promulgation of rules and regulations.

The Township Manager shall, from time to time, promulgate rules and regulations in the manner provided in § 27-3. They shall provide in detail for the management, operation and conduct of the Fire Department and its members and shall implement the provisions of this chapter. The rules and regulations so promulgated shall be binding on the Fire Department and its members equally with the provisions of this chapter.

§ 27-3. Procedure for promulgation of rules.

A. Rules and regulations shall be deemed promulgated when:

- (1) Issued in writing;
- (2) Signed by the Township Manager and Chief;
- (3) Filed in the office of the Municipal Clerk; and
- (4) A copy thereof is posted on the departmental bulletin board.

B. Thereafter such rules and regulations shall be in effect and binding.

§ 27-4. Continuation of existing rules.

The rules and regulations promulgated by the Township Manager on November 25, 1952, as amended and supplemented, are continued in full force and effect and shall be deemed to implement this chapter. The Township Manager may amend or repeal all or any part of such rules and regulations or may make and establish such new or additional rules and regulations as may be expedient and proper for the better

17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

conduct, efficiency or management of the Department.

§ 27-5. Familiarity of members with chapter and rules.

It shall be the duty of every member of the Department to familiarize himself or herself with this chapter and with the rules and regulations, together with any changes, additions or amendments thereof. For that purpose, a copy of this chapter and of the rules and regulations in printed form shall be issued to each member of the Department.

ARTICLE II
Establishment and Organization

§ 27-6. Continuation of Department; composition.¹⁸

The paid Fire Department as heretofore established is hereby continued. The Department shall be composed of one Chief and such administrative officers, Deputy Chiefs, Captains, Lieutenants, fire fighters, probationary fire fighters and other personnel as the Township Manager may determine from time to time are essential to be appointed under this chapter in order to meet the Fire Department needs of the township.¹⁹

§ 27-7. General powers and duties of Township Manager.

The Township Manager shall have full administrative control of the Fire Department and of its members. He or she is directed and authorized:

- A. To promulgate from time to time, as provided in Article I of this chapter, such administrative rules and regulations as may be necessary for the efficient management and operation of the Department.
- B. To enforce the provisions of this chapter and of the rules and regulations governing the Department.
- C. To authorize the examination of applicants for positions in the Department in accordance with this chapter and the rules and regulations.
- D. To appoint such persons as are best qualified for the positions to be filled.
- E. To receive charges preferred against any member of the Department.
- F. To conduct hearings for members against whom charges have been preferred and to impose such punishment as may be commensurate with the offense charged and proved.
- G. To make promotions in accordance with this chapter and the rules and regulations.
- H. To receive from the Chief an annual report and recommendations and to submit the same to the Township Council with recommendations.

§ 27-8. General powers and duties of Chief.

The Chief shall be the executive officer of the Department. Subject to the control of the Township Manager and in accordance with this chapter and the rules and regulations, the Chief shall have charge of the Department, its members, employees and property. The Chief shall be directly responsible to the Township Manager for the conduct, efficiency and management of the Department. The Chief shall be charged with the protection of life and property against loss by fire and with the prevention and suppression of fire within the township. He or she shall see that all fire laws are strictly and impartially enforced.

§ 27-9. Acting Chief.

In the absence of the Chief from duty, the Township Manager may designate a qualified member of the Department as Acting Chief to act in the place of the Chief during his or her absence.

18. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

19. Editor's Note: Former § 25-7, Allocation to Department of Public Safety, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 27-10. Internal organization of Department.

Upon authorization by the Township Manager, the Chief may create and institute such divisions, sections, bureaus or schools as may be deemed necessary or advisable to promote the efficiency of the Department.

ARTICLE III

Auxiliary Fire Fighters and Other Nondepartmental Employees**§ 27-11. Nondepartmental status.**

Auxiliary fire fighters and civilian employees appointed under the provisions of this chapter shall not be members of the Department. They shall not be entitled to participate in the Police and Fire Fighters' Pension Funds or to receive the benefits of tenure of office as provided in N.J.S.A. 40A:14-17 and 40A:14-19, as amended.

§ 27-12. Auxiliary fire fighters.

The Township Manager, upon recommendation of the Chief, may appoint citizens of the township be known as "auxiliary fire fighters" and to serve as an Auxiliary Fire Department. The services of the Auxiliary Fire Department may be utilized in such emergencies as the Township Manager may determine and at such other times as the Township Manager may approve and authorize. Auxiliary fire fighters shall take the oath of office prescribed for members of the Department. Auxiliary fire fighters shall wear an authorized badge at all times while on duty. They shall serve without pay unless otherwise ordered by the Township Council.

§ 27-13. Civilian employees.

When authorized by the Township Manager, the Chief may employ persons to work as civilian employees under the direction of the Fire Department. Such employees shall perform such duties as may be directed by the Chief. They shall be paid by the township in accordance with the Salary Ordinance.²⁰

20. Editor's Note: See Ch. 55, Salaries and Compensations.

ARTICLE IV
Appointments to Department

§ 27-14. Application; examination.

No person shall be appointed a probationary or regular member of the Department unless he or she has first made proper application and has been examined as prescribed in the rules and regulations relating to appointment.

§ 27-15. Qualifications.

No person shall be appointed to the Department unless he:

- A. Possesses the qualifications for appointment provided by law.
- B. Has never been convicted of any crime of moral turpitude.²¹
- C. Complies with the requirements of this article.

§ 27-16. Probationary appointment; dismissal.

Any person appointed to the Department shall be first appointed as a probationary fire fighter to serve for a probationary period of one year. During such year, probationary fire fighters shall obey all the provisions of this chapter and of the rules and regulations. Probationary fire fighters shall not be entitled to enjoy the benefits of tenure of office as provided in N.J.S.A. 40A:14-17 and 40A:14-19, as amended. If at any time during the probationary year the Township Manager shall determine that a probationary fire fighter does not possess the proper ability, aptitude, character or physical fitness for regular membership in the Department, he or she shall dismiss such probationary fire fighter. Such dismissal shall terminate the services of the probationary fire fighter in the Department.

§ 27-17. Report of Chief; evidence of physical condition.

At the completion of the probationary period, the Chief shall submit a written report to the Township Manager, stating in detail the qualifications of the probationary fire fighter for appointment as a regular member of the Department and his or her recommendations. The probationary fire fighter shall furnish to the Township Manager evidence that his or her physical condition satisfies the requirements relating to qualifications for appointment as a regular member of the Department.

§ 27-18. Deception by applicant.

Any deception or attempt at deception by an applicant in the application or in any phase of his or her candidacy shall be cause for rejection or for dismissal if discovered after appointment.

§ 27-19. Oath of office.

Upon appointment as a probationary fire fighter and as a regular member of the Department, every appointee shall subscribe to and take the oath of office prescribed by law.

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) Also former § 25-16C, concerning height and weight requirements, which immediately followed this subsection, was deleted at time of adoption of code. (See Ch. 1, General Provisions, Art. I)

ARTICLE V
Salaries

§ 27-20. Salaries and longevity pay.

- A. The salaries and longevity pay of the members of the Fire Department shall be as provided from time to time in an ordinance adopted by the Township Council.
- B. The Township Manager is authorized, at his or her discretion, to provide additional compensation for collateral duties or for duties of the Fire Prevention Officer and the Fire Official up to but not exceeding an amount provided by the Township Council. **[Added 10-11-1983 by Ord. No. 83-41²²]**

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE VI
Promotions

§ 27-21. Method of promotion.

Promotions shall be made in accordance with the rules and regulations.

§ 27-22. Assignment to particular duty not to constitute promotion.

Assignment or reassignment to duty in accordance with § 27-25 shall not constitute, in itself, a promotion.

ARTICLE VII
Departmental Operations and Routine of Duty

§ 27-23. Direction by Chief.

Tours of duty, time of reporting, special assignments, changes of assignment and all details in connection with the time and circumstances of duties shall be as directed by the Chief and as provided in the rules and regulations.

§ 27-24. Hours of duty.

Unless otherwise ordered by the Township Manager, the day tour of duty in the Department shall extend from 8:00 a.m. to 6:00 p.m. and the night tour from 6:00 p.m. to 8:00 a.m.

§ 27-25. Assignments and reassignments.

Members of the Department may be assigned to duty and reassigned to other duty as the best interest of the Department may require.

§ 27-26. Substitutes for absent command officers.

In the absence from duty of an officer in charge of any command, the Chief may designate a qualified member of the Department to act in the place of such officer.

§ 27-27. Special duty assignments.

Members of the Department shall normally be used in the regular service; provided, however, that the Chief, whenever in his or her opinion the public welfare requires it, may detail any member of the Department for any special or particular duty connected with the fire service of the township.

§ 27-28. Emergency recall to duty.

All members of the Department, while off duty, shall be subject to recall to duty in times of emergency by direction of the Chief.

§ 27-29. Outside activities.

Members of the Department shall devote their time to the business of the Department. They are prohibited from being employed in or giving their attention to any other business, except with the express consent of the Township Manager.

ARTICLE VIII
Charges and Trials

§ 27-30. Bringing of charges; grounds.

Charges may be preferred against any member of the Department by any officer of the Department or by any private citizen for the violation of any provision of this chapter or of the rules and regulations.

§ 27-31. Procedure; notice to accused.

Charges shall be prepared, filed and served and the date fixed for trial in accordance with law. In addition to the procedure provided by law, the accused shall be notified in writing at the time of service upon him or her of a copy of the charge or charges, of his or her right to obtain counsel and to have witnesses appear on his or her behalf at the trial.

§ 27-32. Issuance and service of subpoenas.

Subpoenas for any witnesses for either the Department or the accused may be issued as provided by law. Subpoenas shall be served by a uniformed member of the Department, preferably an officer.

§ 27-33. Trial procedure.²³

The trial shall be conducted by and before the Township Manager or designee. It shall be conducted in public unless public trial is waived by the accused. At the trial, the Township Manager shall first read the charge or charges and shall ask for and record the plea of the accused to each charge. All witnesses shall be sworn before testifying. A record shall be kept of the names and addresses of all witnesses.

§ 27-34. Decision or sentence.²⁴

The decision or sentence of the Township Manager or designee after trial shall be rendered in writing, in triplicate. One copy shall be delivered to the accused.

§ 27-35. Suspension pending trial.

Pending trial on charges, the Chief may suspend the accused member. He or she shall not be restored to duty pending trial except by order of the Township Manager.

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE IX
Uniforms and Equipment

§ 27-36. Issuance to probationary fire fighters.

The township shall furnish to each probationary fire fighter one complete set of uniform clothing and equipment in accordance with the requirements established by the Township Manager. All such clothing and equipment shall be and remain the property of the township until such time as the probationary fire fighter shall be appointed and become a regular fire fighter of the Department.

§ 27-37. Uniform clothing allowance.²⁵

Regular members of the Department shall be entitled to receive a sum not in excess of that provided by the Township Council to assist in providing for and maintaining the necessary uniform clothing.

§ 27-38. Issuance of personal equipment; care.

All members of the Department shall receive such personal equipment as may be authorized under this chapter and the rules and regulations or as directed by the Chief. They shall be responsible for the safekeeping, care, maintenance, serviceable condition and proper use of such equipment. Personal equipment shall not be altered or defaced in any manner. Loss of personal equipment shall be promptly reported to the Chief.

§ 27-39. Wearing and care of uniforms.

All probationary fire fighters and uniformed members of the Department, upon reporting for duty and while on duty, shall wear the uniforms prescribed in the rules and regulations and shall at all times keep the same clean and in a state of good repair. No member of the Department shall wear the uniform or any part of it while not on duty.

§ 27-40. Return of uniforms and equipment.

In the event that the employment of a probationary fire fighter shall terminate or be terminated for any reason prior to his or her appointment and his or her acceptance of such appointment as a regular fire fighter of the Department, all of his or her uniform clothing and equipment shall be immediately surrendered to the Chief by such probationary fire fighter. All articles of equipment issued to any member of the Department shall be returned to the Department upon the expiration of service due to discharge, retirement, death or resignation.

25. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 28**GARDEN STATE C-PACE PROGRAM**

[HISTORY: Adopted by the Council of the Township of Montclair 8-12-2025 by Ord. No. O-25-30. Amendments noted where applicable.]

§ 28-1. Scope and purpose; approval of certain C-PACE Project Documents.

- A. Pursuant to the Act, this chapter shall constitute Montclair Township's "opt-in" ordinance that authorizes participation in the Garden State C-PACE Program, which shall be available to Eligible Properties situated within the Montclair Township and authorizes execution of a Garden State Program Agreement.
- B. The Township of Montclair shall accept C-PACE Projects in accordance with the Garden State Program Agreement to be entered into with the Authority.
- C. In accordance with the Act, the Township of Montclair shall levy, bill, collect, remit, and enforce C-PACE Assessments with respect to participating Eligible Properties located within the Township.
- D. An employee of the Department of Planning & Community Development shall be designated as the "Authorized Officer" for purposes of executing and delivering the various agreements and documents authorized by this chapter.
- E. An Authorized Officer is hereby authorized and directed to enter into the Garden State Program Agreement with the Authority in substantially the form attached as Exhibit A hereto.
- F. An Authorized Officer under the direction of the Township Manager is hereby authorized and directed to (i) enter into C-PACE Assessment Agreements, Notices of Assessment, and any other Uniform Assessment Documents with Eligible Owners, and arrange for the recording of such documents in the Recording Office of the County; and (ii) enter into Assignment Agreements and any other Uniform Assessment Documents with Qualified Capital Providers, and arrange for the recording of such documents in the Recording Office of the County.

§ 28-2. Definitions.

Such terms and meanings as defined in this chapter or in the Program Guidelines shall be applicable to municipal actions and municipal documents required to carry out the purposes of this Ordinance.

§ 28-3. Criteria for qualifying a C-PACE Project for a C-PACE Assessment.

To qualify for a C-PACE Assessment, a proposed project must meet the criteria in the Program Guidelines for eligibility and have been approved by the Authority.

§ 28-4. Municipal C-PACE Liaison.

The Township Manager shall designate a municipal official, who shall be known as the "Municipal C-PACE Liaison," to serve as the Township's liaison to the Garden State C-PACE Program. The Township shall have a designated Municipal C-PACE Liaison at all times during the Township's participation in the Garden State C-PACE Program. The Municipal C-PACE Liaison shall be or become qualified as described in the Garden State Program Agreement and shall have the responsibilities and obligations set forth in the Garden State Program Agreement.

§ 28-5. Municipal C-PACE fees; recording of C-PACE Project Documents.

Municipal C-PACE fees and the recording of Uniform Assessment Documents for a C-PACE Project shall be as set forth in the Garden State Program Agreement. The amount of any fee shall not be revised without providing prior written notice to the Authority, and shall not exceed the amount set forth in the Program Guidelines. Any increase in the amount of a fee shall not apply retroactively to any prior fee paid for which a completed C-PACE Project application was submitted but shall apply to all prospective fees for all C-PACE Projects, including any C-PACE Project with an existing C-PACE Assessment.

§ 28-6. Forms of Uniform Assessment Documents and related documents.

- A. All Uniform Assessment Documents, financial documents, or other documents in the form set forth in the Uniform Assessment Documents to be entered into between the Township and an Eligible Owner or a Qualified Capital Provider shall be subject to review by the Township Manager or their designee to determine their substantive adherence to the forms as set forth in the Uniform Assessment Documents and shall be approved by resolution of the governing body, prior to execution of any such documents. All C-PACE Project Documents, such other Uniform Assessment Documents, and other related documents to be entered into in connection with the Garden State C-PACE Program shall be in compliance with the Act, this Ordinance, the Garden State Program Agreement, and the Program Guidelines.
- B. All final documents to be executed by the Township in connection with its participation in the Garden State C-PACE Program shall be subject to review and approval by the Municipal Attorney.

§ 28-7. Acceptance of projects.

- A. Pursuant to § 28-1 of this chapter, the Municipality hereby agrees to accept C-PACE Projects pursuant to the Garden State C-PACE Program in accordance with the Act, the Program Guidelines, and the Garden State Program Agreement entered into with the Authority.
- B. All C-PACE Projects and Eligible Owners shall have satisfied the criteria set forth in § 28-3 of this chapter.

§ 28-8. Collection, enforcement and remittance.

- A. If any payment of a C-PACE Assessment is not made when that payment shall have become due, or later, consistent with any grace period provided or extended by the Township for the payment of property tax bills as may be permitted or required by law, the Township shall impose interest thereon ("statutory interest") at the same rate as may be imposed upon unpaid property taxes in the Township. Such statutory interest shall be in addition to any accrued interest and any amount fixed as a penalty for delinquency pursuant to the Direct Financing Agreement.
- B. All delinquent payments of C-PACE Assessments, together with statutory interest thereon, accrued interest, and any penalties for such delinquency, shall be collected and enforced in the same manner as unpaid property taxes, which may include accelerated tax sales. The proceeds of the tax sale shall also pay the outstanding past unpaid amounts of the C-PACE Assessment. The remaining balance not delinquent on a C-PACE Assessment shall not be subject to acceleration or extinguishment in the event of a default in payment.
- C. Any statutory interest collected by the Township on a delinquent C-PACE Assessment shall be retained by the Township. Any accrued interest, or any amount fixed as a penalty for delinquency pursuant to the Direct Financing Agreement shall be remitted to the Qualified Capital Provider.

- D. If a Property Owner is delinquent on a C-PACE Assessment as well as delinquent on taxes, charges, or other assessments, the Municipality shall apply any payment made by the Property Owner to any and all such other delinquencies before being applied to any delinquent C-PACE Assessment.
- E. In the event that any lien on an Eligible Property shall be exposed to tax sale, pursuant to the "tax sale law," N.J.S.A. 54:5-1 et seq., and is struck off and sold to the Township, the C-PACE Assessment shall survive any subsequent action to foreclose the right of redemption and continue as a first lien upon the real estate described in the C-PACE Assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances, except subsequent taxes, charges, or other assessments.
- F. While the Township holds the lien or owns the Eligible Property, the Township shall not be responsible for or required to make any payment from its treasury or any other source in furtherance of or to satisfy the C-PACE Assessment.
- G. The Township of Montclair shall not bear any other responsibility in furtherance or satisfaction of a C-PACE Assessment, except that a Qualified Capital Provider may seek to compel the Municipality to enforce a lien through an action to foreclose.
- H. The Township's appropriate administrative personnel are authorized to make payments to the Qualified Capital Provider or its designee in accordance with the Assignment Agreement without the necessity of prior approval from the governing body, in accordance with N.J.S.A. 40A:5-17 and the appropriate provisions of the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq.

§ 28-9. Public funds not to be utilized to pay delinquent assessment.

- A. The Township of Montclair will not be responsible for or required to make any payment from its funds or any other source of public funds in furtherance of or to satisfy the C-PACE Assessment.
- B. This chapter shall not be construed to confer any right of action or property interest upon any party participating in a C-PACE transaction with the Municipality, nor shall it be interpreted to pledge, offer, or encumber the full faith and credit of the Municipality for any C-PACE lien or C-PACE Assessment.

§ 28-10. Revenue from the C-PACE Assessment not a part of general fund.

- A. The C-PACE Assessment in respect of a C-PACE Project shall be assigned directly by the Municipality, and any assignee thereof, to the Qualified Capital Provider with respect to such C-PACE Project, as security for the Direct Financing.
- B. Such assignment shall be an absolute assignment of all of the Municipality's right, title, and interest in and to the C-PACE Assessment, except for its obligations to levy, bill, collect, remit, and enforce C-PACE Assessments. The proceeds of a C-PACE Assessment shall be considered "special revenues" owned by the Qualified Capital Provider pursuant to Chapter 9 of the Federal Bankruptcy Code, U.S.C. Title 11.
- C. Pursuant to N.J.S.A. 34:1B-378, C-PACE Assessments assigned shall not be included in the Municipality's general funds, or be subject to any laws regarding the receipt, deposit, investment, or appropriation of public funds, and shall retain such status notwithstanding enforcement of the C-PACE Assessment by the Municipality or its assignee.
- D. If the Township of Montclair is otherwise subject to tax or revenue sharing pursuant to law, the C-

PACE Assessments shall not be considered part of the tax or revenue sharing formula or calculation of municipal revenues for the purpose of determining whether the Municipality is obligated to make payment to, or receive a credit from, any tax sharing or revenue sharing pool. However, the redemption of any delinquent and unpaid C-PACE Assessments, including any interest, penalties, or other charges related thereto, shall be paid no later than on the first available tax bill after the property has been sold after an action to foreclose the right of redemption.

§ 28-11. Independent sections, conflicts; effective date.

- A. Each section of this chapter is an independent section, and the holding of any section or part thereof to be unconstitutional, void, invalid or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or parts thereof which shall survive in full force and effect.
- B. All ordinances and parts of ordinances that conflict with or that are inconsistent with this chapter are hereby repealed but only to the extent of such conflict or inconsistency.
- C. This chapter shall take effect after final adoption and approval following publication in accordance with law.

Chapter 29**HOUSING COMMISSION**

[HISTORY: Adopted by the Council of the Township of Montclair 12-28-2004 by Ord. No. 04-67. Amendments noted where applicable.]

GENERAL REFERENCES

Housing — See Ch. 190.

Zoning — See Ch. 301.

Subdivision of land — See Ch. 301.

§ 29-1. Findings; Commission created.

The Township Council has established as a primary goal the maintenance of Montclair's economic diversity and seeks creative housing initiatives to further that goal. The Council believes that an advisory commission could assist in the pursuit of new housing strategies in the face of rising property values, increased real estate market pressures and limited supply of developable land. A housing commission is one of several strategies recommended by Baird & Driskell, housing consultants, in the Affordable Housing Strategy dated June 2004. Therefore, there is hereby created and established an advisory commission to be known as the "Montclair Housing Commission" (MHC).

§ 29-2. Membership; term. [Amended 6-9-2009 by Ord. No. O-023-09]

The Montclair Housing Commission ("MHC") shall consist of 13 members appointed by the Township Council to serve staggered three-year terms, except as set forth below. One member of the Commission shall be a student from a high school located in the Township and one member shall be a Montclair State University student. The two student members shall be considered nonvoting interns and shall serve for a term of one year. MHC membership should consist of a diverse group of individuals committed to achieving the Township's affordable housing goals. All members of the Commission shall be appointed in accordance with the Township Council's operating practices and procedures for appointments to advisory boards and commissions, including the submission of written volunteer forms provided by the Township Clerk.

§ 29-3. The members of the Commission shall serve without compensation.

No person who is a Township employee holding a managerial or policy-making position shall serve as a voting member of the Commission.

§ 29-4. Objectives; duties.

The MHC shall be advisory to the Council on housing policies and issues and provide recommendations to the Township Council and other boards and commissions. The primary responsibility of the MHC shall be the implementation of affordable housing programs as described in the Montclair Affordable Housing Strategy, dated June 2004, in conjunction with the Township staff, Council, local nonprofits and others. The MHC shall submit to the Township Council a strategic plan within 90 days of its formation, and thereafter on an annual basis, which details its proposed initiatives and timetable for each. At the sole and exclusive discretion of the Council, the title of Township Housing Specialist may be added to the Montclair

Salary Ordinance²⁶, who shall serve as staff to the MHC.

§ 29-5. Annual budget; office space.

The Council may grant MHC an annual budget as is reasonable and proper to enable it to carry out its responsibilities and shall have the use of adequate space and facilities for the conduct of its business at 205 Claremont Avenue, Montclair, N.J.

§ 29-6. Records and annual reports.

The MHC shall keep records of its meetings and activities and make an annual report to the governing body. All meetings and conduct of business shall be subject to the Open Public Meetings Act., N.J.S.A. 10:4-1 et seq.

§ 29-7. Studies and recommendations.

The MHC shall have the power to study and make recommendations concerning any and all issues related to affordable housing as well as any other appropriate topic upon which the Township Council seeks advice and study.

26. Editor's Note: The currently effective Salary Ordinance is on file in the office of the Municipal Clerk.

Chapter 29A**RESIDENTIAL DWELLING RENTAL RELIEF FUND**

[HISTORY: Adopted by the Mayor and Council of the Township of Montclair 3-14-2023 by Ord. No. O-23-04. Amendments noted where applicable.]

§ 29A-1. Establishment of Fund.

There is hereby established a Residential Dwelling Rental Relief Fund for the purpose of providing temporary financial rental assistance to persons who can demonstrate a genuine need or hardship in meeting their rental payment obligations through no fault of their own. The Residential Rent Relief Fund shall be administered by the Housing Commission in accordance with the terms and conditions of this chapter and the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq.

§ 29A-2. Purposes of Fund.

Funds from the Residential Dwelling Rental Relief Fund may be utilized to provide tenant-based temporary financial rental assistance to applicants residing in the Township of Montclair who can demonstrate a genuine need or hardship in meeting their rental payment obligations through no fault of their own. Monies paid from the Residential Dwelling Rental Relief Fund shall be paid to landlords on behalf of qualifying individuals/households. For purposes of this chapter, an applicant shall demonstrate genuine need or hardship based on a household income at or below 80% of the area median income, as determined by the U.S. Department of Housing and Urban Development, where at least one member has been unemployed or subject to reduced income for the ninety-day period preceding the date of the application. The applicant must establish proof of residency and shall be subject to income verification. The Housing Commission may request additional information from an applicant as necessary to process and/or approve an application pursuant to this chapter.

§ 29A-3. General conditions for rental assistance.

- A. An applicant may receive up to 12 months of rental assistance. Maximum assistance with rent payment in arrears shall be six months. Arrears will be paid first, with the remainder available for future rent. Rental assistance shall be capped at 125% of the area fair market rent.
- B. No applicant shall be eligible for rental assistance unless they have resided in the rental housing unit for at least three months prior to falling into arrears.
- C. No applicant shall receive rental assistance if alternative sources of rental subsidy, including, without limitation, rental assistance under the federal or state programs, are available.
- D. Any rental housing unit, the rental for which is paid, in whole or in part, with rental assistance received under the Residential Dwelling Rental Relief Fund, shall be in compliance with all applicable building, zoning, fire and housing habitability codes.

§ 29A-4. Limitation on amount and period of rental assistance.

Subject to § 29A-3, the Housing Commission shall, on a case-by-case basis, establish the maximum amounts and lengths of terms of eligibility for temporary rental assistance necessary to carry out the purposes of this chapter.

§ 29A-5

RESIDENTIAL DWELLING RENTAL RELIEF FUND

§ 29A-5. Rules and regulations; when effective; conflict with other provisions.

The Manager, upon recommendation of the Housing Commission, may promulgate such rules and regulations that are necessary to govern the administration of the Residential Dwelling Rent Relief Fund. No such rules or regulations shall become effective until filed in the office of the Township Clerk. The Township Clerk shall arrange for the prompt publication of said rules and regulations after same have been filed. In the event of a conflict between this chapter and any such rules and regulations, this chapter shall control.

§ 29A-6. Sunset/termination.

On the date that is 20 years following the effective date of this chapter, authorization for the Residential Dwelling Rent Relief Fund shall sunset, and the Fund shall terminate. Any unexpended balance in the Fund as of that date shall be remitted to the Township for use, in its sole discretion, in its operating budget. In the event the Fund is depleted before it sunsets, the Fund shall automatically terminate. The Township is not obligated or required to replenish the Fund at any time prior to its depletion under any circumstance.

Chapter 31**INSURANCE FUND**

[HISTORY: Adopted by the Council of the Township of Montclair 4-1-1986 by Ord. No. 86-16. Amendments noted where applicable.]

§ 31-1. Establishment; purposes.

There is hereby established, pursuant to N.J.S.A. 40A:10-6 et seq., a township insurance fund for the following purposes:

- A. To insure against any loss or damage, however caused, to any property, motor vehicles, equipment or apparatus owned by it or owned by or under the control of any of its departments, boards, agencies or commissions, except the Board of Education.²⁷
- B. To insure against liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by it or owned by or under the control of any of its departments, boards, agencies or commissions.
- C. To insure against liability for its negligence and that of its officers, employees and servants, whether or not compensated or part-time, who are authorized to perform any act or services, but not including an independent contract within the limitations of the New Jersey Tort Claims Act (N.J.S.A. 59:11 et seq.).

§ 31-2. Appropriations.

The Township Council shall appropriate the moneys necessary to accomplish the purposes of this chapter. The Township Council may designate the maximum or minimum amount of funds and from time to time provide for the disposition of any excess over and above the maximum amount fixed, or of the interest or profits arising therefrom when the fund shall have reached the maximum limit.

§ 31-3. Commissioners.

The insurance fund shall be operated and supervised by three Commissioners, who shall be officials of the Township of Montclair and who may be members of the Township Council. The Commissioners shall be appointed by the Township Manager and shall serve for a period of two years or for the remainder of their terms of office as officials, whichever is less, and until their successors shall have been appointed and qualified. Vacancies caused by any reason other than expiration of term as an official shall be filled for the unexpired term. The Commissioners shall serve without compensation.

§ 31-4. Secretary.

The Commissioners shall appoint a person to serve as Secretary to the Insurance Fund Commission, who shall serve at the pleasure of the Commission. The Secretary shall be paid a salary as set by ordinance of the Township Council.²⁸

27. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

28. Editor's Note: See Ch. 55, Salaries and Compensation.

§ 31-5. Chair.

The Commissioners shall, forthwith after their appointment, organize for the ensuing year by the election from their membership of a Chair who shall serve for one year.

§ 31-6. Powers and authority of Commissioners.

A. The Commissioners shall have the following powers and authority:

- (1) To employ necessary clerical assistants, whose compensation shall be fixed and paid by the Township Council in the same manner as is that of other employees of the local unit.
- (2) To invest the fund, and all additions and accretions thereto, in such securities as they shall deem best suited for the purposes of this chapter.
- (3) To adopt rules and regulations for the control and investment of the fund.
- (4) To keep on hand at all times sufficient money, or have the same invested in such securities as can be immediately sold for cash, for the payment of losses to any buildings or property of the local unit or liability resulting from the operation of publicly-owned motor vehicles, equipment or apparatus.
- (5) To fix reasonable rates for premiums for all insurance carried by the fund and effect all insurance to the insurance fund with any insurance company or companies authorized to do business in this state.²⁹

B. All insurance upon property owned or controlled by a local unit or any of its departments, boards, agencies or commissions shall be placed and effected by the Commissioners.

C. If provided by the rules and regulations of the Commissioners, the Secretary to the Insurance Fund Commission shall be entrusted with the daily operation of the insurance fund and shall submit a report to the Council members at least once a month.

29. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 40**MUTUAL ASSISTANCE**

[HISTORY: Adopted by the Council of the Township of Montclair 2-5-2002 by Ord. No. 02-03. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 27.

Police Department — See Ch. 51.

§ 40-1. Adoption of agreement.

The following Mutual Assistance Agreement for supplemental fire assistance among all the municipal corporations in the County of Essex be and it hereby is ratified and approved, and the Mayor and Township Clerk be and they hereby are authorized and directed to execute said agreement and cause certified copies of this chapter, upon its adoption, to be distributed to the other municipalities in Essex County:

MUTUAL ASSISTANCE AGREEMENT

This agreement made and entered into by and among the Township of Belleville, Township of Bloomfield, Township of the Borough of Caldwell, Township of Cedar Grove, City of East Orange, Township of Essex Fells, Township of Fairfield, Township of Irvington, Township of Livingston, Township of Maplewood, Township of Milburn, Township of Montclair, City of Newark, Township of North Caldwell, Township of Nutley, City of Orange, Borough of Roseland, Township of South Orange, Township of Verona, Township of West Caldwell, and Township of West Orange, all municipal corporations of the State of New Jersey and being all the municipal corporations situated in The County of Essex:

WHEREAS, the parties hereto are geographically located in proximity to each other; and

WHEREAS, it is to the mutual advantage and benefit of the parties hereto that each of the other parties agree to render supplemental fire assistance in the event of an emergency, disaster or widespread conflagration or where it appears that an emergency, disaster, or widespread conflagration may develop, which may be beyond the control of a single party and therefore requires the assistance of one or more of the other parties hereto; and

WHEREAS, municipal corporations of the State of New Jersey are authorized under N.J.S.A. 40A:14-156.1 through 156.4 to provide fire assistance outside the normal territorial jurisdiction of the municipality:

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. For the purpose of facilitating the provision of assistance pursuant to this agreement, the municipal corporations which are parties hereto shall agree to utilize the Level 1, 2 and 3 system of response for mutual aid.

2. In the event of an emergency, disaster or widespread conflagration which is beyond the capacity and facilities of any one of the parties hereto, the other parties agree to furnish, upon request, fire assistance in coping with such emergency, disaster or widespread conflagration to the party requesting such assistance. The assistance requested may be upon an actual or standby basis.

3. The extent of assistance to be furnished under this agreement shall be determined solely by the municipal party furnishing such assistance, and it is understood that the assistance so furnished may be discontinued at the sole discretion of the furnishing party. Prior notification shall be made to the Incident Commander.

4. Fire officers who shall be commanded by their superior officer to perform fire duties outside the territorial limits of the municipality which regularly employs such officers shall be under the direction and authority of the local commanding officers of the municipality to which they are called to perform such fire duties, and they shall have the same powers, authority and immunities as have the members of the Fire Department of the municipality in which such assistance is being rendered.

5. All personnel furnished shall work, to the greatest extent possible, under their own supervisory personnel, and equipment furnished will ordinarily be operated by personnel of the party furnishing the equipment.

6. It is mutually agreed and understood that the provisions of the agreement shall be invoked only when, in the opinion of the Incident Commander, Fire Chief, Fire Commissioner or other person or persons in charge of fire or public safety of the party requesting assistance, it is deemed necessary to request outside assistance because all of the normal facilities at their command have been exhausted, and outside assistance is needed to control and suppress an emergency, disaster or widespread conflagration.

7. It is further agreed and understood that whenever, in the opinion of the Incident Commander, Mayor, Fire Chief, Fire Commissioner or other person or persons in charge of fire or public safety of any party, it is deemed necessary to request outside assistance, request shall first be made upon those parties which are within the level of the party requesting assistance. If sufficient assistance is available from those parties within the level of the party requesting assistance, no request shall be made upon any party in any other region.

8. At Level 3 the Essex County Office of Emergency Management Fire Coordinator shall be notified in anticipation of continued mutual aid.

9. The municipality requesting assistance may, upon request, reimburse each municipality providing assistance to the extent to which the municipality providing such assistance cannot obtain reimbursement of payment for such assistance from any county, state or federal governmental unit or agency, for expenditures actually incurred in furnishing assistance.

10. The parties hereto shall make request of the Essex County Office of Emergency Management Fire Coordinator that he serve as coordinator among the municipalities which are parties to this agreement, for the purpose of facilitating the provision of assistance pursuant to this agreement.

11. This agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever.

12. Any party to this agreement may withdraw at any time, upon 30 days' written notice to each of the other parties and thereafter, and such withdrawing party shall no longer be a party to this agreement, but this agreement shall continue to exist among the remaining parties.

13. This agreement shall become effective for each party hereof when that party by ordinance of its governing body ratifies and approves this agreement and authorized the proper municipal officials to execute the same, at which time certified copies of said ordinance approving the same shall be distributed to the other parties.

Chapter 42**NATIVE VEGETATION**

[HISTORY: Adopted by the Council of the Township of Montclair 5-17-2022 by Ord. No. O-22-07. Amendments noted where applicable.]

§ 42-1. Native species required in public places.

The Township of Montclair will require that at least 70% of newly procured plants (shrubs, groundcovers, and flowers) in each category as well as 70% of trees used in public places be native, in order to:

- A. Protect and promote appropriate native vegetation; and
- B. Be a leader in addressing the biodiversity crisis; and
- C. Promote microhabitats in suburban areas for the conservation of pollinators and birds; and
- D. Create larger, more connected plant populations, to help ensure the future of native plant species by increasing their ability to migrate in response to changes in climate.

§ 42-2. Definitions.

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

NATIVE PLANT OR TREE — Occurring in the northeast and mid-Atlantic regions of the United States before Euro-American settlement.

§ 42-3. Invasive species banned.

Invasive species listed on the New Jersey Invasive Species Strike Team Don't Plant List are hereby banned from future procurement.

§ 42-4. Use of deer-resistant native plants.

Deer-resistant native plants should be used to the extent they are available.

§ 42-5. Exceptions.

The use of non-native plant species shall be permitted in:

- A. Places where vegetables, herbs, and fruit trees are grown on public property;
- B. Public grass areas, and athletic fields;
- C. Planters, pots, and hanging baskets in all commercial business districts;
- D. Traffic circles, dividers; and
- E. Dedicated areas within Township parks around park signs, flag poles and memorials.

§ 42-6. Repealer.

All regulations pertaining to public land that are in conflict with this chapter, in whole or in part, are hereby repealed to the extent that they are in conflict.

§ 42-7. Review by Montclair Environmental Commission.

The Montclair Environmental Commission, by way of an annual memo to the Township Council, should review the above exceptions and procurement percentages annually and make recommendations to the Township Council for changes as the marketplace for native plants and trees evolves to meet demand.

§ 42-8. Severability.

If any portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate provision and shall not affect the validity of the remaining portions of the chapter.

§ 42-9. Title.

This chapter shall be known and may be cited as the "Jose German-Gomez Native Species Act."

MONTCLAIR CODE

Chapter 44

OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Board of Commissioners (Arts. II and III) or Township Council (all subsequent articles) of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
(Reserved)

§ 44-1. through § 44-2. (Reserved)

ARTICLE II

Law Department³⁰

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. III of Ch. 5 of the 1979 Code; amended in its entirety 5-23-2000 by Ord. No. 00-19]

§ 44-3. Department created.

A Law Department is hereby created.

§ 44-4. Township Attorney.³¹

The office of Township Attorney is hereby created.

§ 44-5. Duties of Township Attorney.

The Township Attorney shall be in charge of the Law Department. The Township Attorney shall have charge of all legal affairs of the township government and of the various boards or other official bodies connected therewith.

§ 44-6. Term and compensation of Counsel.

The Township Attorney shall be appointed for a term of one year. The Township Attorney shall receive an annual salary as provided in the Salary Ordinance³² and, in addition thereto, such extra compensation for special litigation and other special matters as the Township Council shall determine from time to time.

§ 44-7. Assistant Township Attorney; special counsel.

- A. An Assistant Township Attorney may be appointed by the Township Council to assist the Township Attorney and to perform all duties required of him or her by the members of the Township Council, for such term and at such salary as said Council shall determine.
- B. A special or outside counsel may be appointed by the Township Council to work in such capacity and to perform such special duties and assignments as directly required of him or her by the members of the Township Council, for such term and at such salary as said Council may determine.

§ 44-8. Clerical aid.

The Township Attorney, Assistant Township Attorney and special or outside counsel shall have such clerical aid as may be necessary to properly perform the duties of the Law Department.

30. Editor's Note: Former Ch. 5, Art. I, Salaries of Mayor and Council Members, which preceded this article, was repealed 5-23-2000 by Ord. No. 00-19.

31. Editor's Note: See also Ch. 3, Administration of Government, Art. IV.

32. Editor's Note: See Ch. 55, Salaries and Compensation.

ARTICLE III

Purchasing Agent

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. IV of Ch. 5 of the 1979 Code; amended in its entirety 9-25-2018 by Ord. No. O-18-041]

§ 44-9. Position established.

There is hereby created the position of Purchasing Agent for the Township of Montclair.

§ 44-10. Supervision.

The Purchasing Agent shall be under the supervision of the Director of the Department of Finance.

§ 44-11. Appointment.

The Purchasing Agent shall be appointed by the Township Manager.

§ 44-12. Duties.

The Purchasing Agent shall have, on behalf of the Township Council of the Township of Montclair, the authority, responsibility and accountability for the purchasing activity pursuant to Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.); to prepare public advertising for and to receive bids and requests for proposals for the provision or performance of goods, services and construction contracts; to award contracts pursuant to New Jersey law in accordance with the regulations, forms and procedures promulgated by state regulatory agencies; and conduct any activities as may be necessary or appropriate to the purchasing function of the Township of Montclair.

§ 44-12.1. Qualifications.

The Purchasing Agent is required to possess a valid Qualified Purchasing Agent certificate, as issued by the New Jersey Division of Local Government Services, Department of Community Affairs.

§ 44-12.2. Bid threshold. [Amended 12-19-2023 by Ord. No. O-23-41]

The Township of Montclair's bid threshold shall be equal to the threshold amount adjusted by the Governor of New Jersey pursuant to N.J.S.A. 40A:11-3c, as permitted by law.

ARTICLE IV
Deputy Municipal Clerk
[Adopted 5-16-1989 by Ord. No. 89-22]

§ 44-13. Office created.

There is hereby created the office of Deputy Municipal Clerk in the Township of Montclair pursuant to the provisions of N.J.S.A. 40A:9-135.

§ 44-14. Appointment.

The Deputy Municipal Clerk shall be appointed by the Township Manager.

§ 44-15. Powers and duties.

- A. The duties of the Deputy Municipal Clerk shall be to act as assistant to the Municipal Clerk and to perform all such duties in connection with the Municipal Clerk's office as may be from time to time designated by the Township Council and Municipal Clerk.
- B. The Deputy Municipal Clerk shall have all the powers and shall perform all the duties of the Municipal Clerk during such times and at such specific periods as the Municipal Clerk shall be absent.

ARTICLE V
(Reserved)³³

§ 44-16. through § 44-22. (Reserved)

33. Editor's Note: Former Article V, Director of Public Safety, adopted 6-7-2000 by Ord. No. 00-43, was removed from the Code as its provisions expired 12-31-2002.

ARTICLE VI

Parking Enforcement Officer**[Adopted 12-27-2012 by Ord. No. O-12-71]****§ 44-23. Creation of position.**

The position of parking enforcement officer is created. The number of parking enforcement officers shall be determined by the Manager. The compensation of a parking enforcement officer shall be set by the Salary Ordinance, Montclair Code Chapter 55.

§ 44-24. Powers and duties.

A parking enforcement officer shall possess the power and authority, to the extent permitted by state law and subject to the limitations set forth in N.J.S.A. 40A:9-154.8, to:

- A. Issue a parking ticket for a parking offense, as those two terms are defined in the Parking Offenses Adjudication Act, P.L. 1985, c. 14 (N.J.S.A. 39:4-139.2 et seq.);
- B. Serve and execute all process for any parking offense issuing out of the court in the municipality having jurisdiction over the complaint; and
- C. Cause any vehicle parked, stored or abandoned in the municipality in violation of a statute, resolution, ordinance or regulation to be towed away from the scene of the violation and to collect from the vehicle owner or the owner's agent, on behalf of the municipality, the costs of the towing and subsequent storage of the vehicle before surrendering the vehicle to the owner or agent.

§ 44-25. Minimum qualifications.

No person may be appointed as a parking enforcement officer unless, at a minimum, the person:

- A. Is a resident of this state during the term of appointment;
- B. Is able to read, write and speak the English language well and intelligently;
- C. Is of sound mind and in good health;
- D. Is of good moral character; and
- E. Has not been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of his office.

§ 44-26. Compliance with additional state law requirements and procedures.

The appointment and qualifications of a parking enforcement officer shall fully comply with all applicable present and future provisions of New Jersey State law, including but not limited to N.J.S.A. 40A:9-154.7, 40A:9-154.8, 40A:9-154.9, 40A:9-154.10, 40A:9-154.11, and 40A:9-154.12, as may be subsequently amended.

ARTICLE VII
Municipal Engineer
[Adopted 9-25-2018 by Ord. No. O-18-040]

§ 44-27. Position established.

Pursuant to the provisions of N.J.S.A. 40A:9-140, there is hereby established in and for the Township of Montclair the position of Municipal Engineer.

§ 44-28. Duties.

The Municipal Engineer shall perform such duties as are prescribed by ordinance and general law and in addition:

- A. Prepare or cause to be prepared, specifically as directed by the Township Manager, plans and designs and specifications for public works and improvements undertaken by the Township either by account or by public contract.
- B. Provide and maintain surveys, maps, plans, specifications, tax maps and control records with respect to public works and facilities owned or operated by the Township.
- C. Provide technical and engineering advice and assistance to other Township officials as needed.
- D. Attend meetings as directed by the Township Manager.
- E. Perform such other duties as are now or hereafter imposed by statute, regulation or by municipal ordinance or regulation.

§ 44-29. Appointment.

The Township Engineer shall be appointed by the Township Manager.

§ 44-30. Term of office.

Unless otherwise provided by law the term of the office of Municipal Engineer shall be for a period of three years, to commence on January 1 of the year in which the appointment is made.

§ 44-31. Qualifications.

The Municipal Engineer shall be a professional engineer licensed and in good standing in the State of New Jersey.

§ 44-32. Compensation.

- A. If a Township employee, by salary ordinance.
- B. If an independent contractor, on a fee basis set forth by annual contract.

§ 44-33. Hiring of additional engineering services.

Nothing in this article shall inhibit the powers of the Township Council to appoint or contract for any engineering services or consultants in performance of any of the duties of the Municipal Engineer as set forth in § 44-28.

(RESERVED)

Chapter 46

(RESERVED)

[Former Ch. 46, Parking Authority, consisting of Art. I, Establishment, adopted 11-12-2002 by Ord. No 02-51, as amended, and Art. II, Intralocal Agreement, adopted 3-18-2003 by Ord. No. 03-19, as amended, was repealed 12-4-2012 by Ord. No. O-12-50, effective January 1, 2013.]

MONTCLAIR CODE

Chapter 48

PERSONNEL REGULATIONS

[HISTORY: Adopted by the Board of Commissioners (Parts 1 through 3), now Mayor and Town Council (all subsequent parts), as indicated in part histories. Amendments noted where applicable.]

Part 1
Township Personnel
[Adopted 4-15-1980 By Ord. No. 80-12 As Part 1 Of Ch. 40 Of The 1979 Code]

ARTICLE I
Sick Leave

§ 48-1. Applicability. [Amended 5-23-2000 by Ord. No. 00-19; 10-24-2023 by Ord. No. O-23-36; 12-19-2023 by Ord. No. O-23-40]

Unless provided with paid sick leave benefits under an applicable collective negotiations agreement or individual employment contract, all regularly employed and annually salaried employees of the Township and all regularly employed hourly, daily and weekly employees of the Township shall be eligible for sick leave allowance as provided in this article. Under no circumstances shall temporary employees of the Township be considered as coming within the benefits of the plan of this article.

§ 48-2. Definitions.

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

DAY or DAYS — A working day or working days.

SICKNESS — Illness or bodily injury from any cause.

§ 48-3. Regular sick leave allowances.

- A. All regular salaried employees and any supervisory personnel employed by the Township, shall be allowed 1 1/4 days of sick leave per full calendar month of each calendar year of employment. No sick leave credit shall be allowed for any period of employment less than a full calendar month. **[Amended 5-23-2000 by Ord. No. 00-19]**
- B. All regular hourly, daily or weekly employees, other than supervisory personnel employed by the Township, shall be allowed 1/2 day per full calendar month of employment during the first year of employment and 2/3 day per full calendar month of employment each calendar year after the first year of employment. **[Amended 5-23-2000 by Ord. No. 00-19]**
- C. The sick leave allowance of each employee shall accrue at the end of each calendar month of employment until the end of the first full calendar year of his or her employment; and thereafter such sick leave allowance shall accrue on an annual basis in advance on the first day of January of each year.

§ 48-4. Computation of leave for certain employees. [Amended 5-23-2000 by Ord. No. 00-19]

Computation of sick leave allowance for regular hourly, daily and weekly employees shall be based on the number of hours which comprise a regular workday or workweek for the particular job or bureau in which the employee is engaged.³⁴

§ 48-5. Leave pay. [Amended 5-23-2000 by Ord. No. 00-19]

During sickness on permitted sick leaves as provided in § 48-3 and during leave for illness or death in the

34. Editor's Note: Former § 40-5, Leave for family illness, was deleted 5-23-2000 by Ord. No. 00-19.

family, such as father, mother, child, sister, brother, grandfather, grandmother or anyone making his or her home with the member's family in such degree as to cause them to be regarded as a family member, as provided in § 48-7, pay shall be at the full rate so long as the employee's current and accumulated sick leave time has not expired; provided, however, that such sick leave with pay during permitted sick leaves provided in § 48-3 shall not continue for any period exceeding one year commencing from the date of such sickness. In all cases of absence for personal sickness or injury, the Director of the department may require the employee, in order to qualify for sick leave at full pay, to present a statement signed by a physician employed by the Township or other approved physician, attesting to the fact that such employee's absence from work was essential for the treatment and recovery from illness or bodily injury of such employee.

§ 48-6. Special leave for death in family. [Amended 7-22-1997 by Ord. No. 97-35; 5-23-2000 by Ord. No. 00-19]

Special leave may be granted in case of death of a member of the immediate family, as defined in § 48-5. Such special leave shall not exceed five days. In the case of the death of a current mother- or father-in-law, a leave of absence of three days may be allowed. In case of the death of a relative of the second degree (uncle, aunt, niece, nephew or cousin), a leave of absence of one day may be allowed. Special leave under this section, if approved by the Township Manager, shall be exclusive of allowance for sick leave and shall be at full pay.

§ 48-7. Worker's compensation. [Amended 5-23-2000 by Ord. No. 00-19]

- A. In the case of an employee suffering any illness or bodily injury compensable under the New Jersey Worker's Compensation Act, such compensation as may be prescribed by said Worker's Compensation Act during the period of his or her temporary disability shall not be charged against his or her sick leave. He or she shall receive full pay in accordance with § 48-5 and only the difference between full pay and the compensation received under the Worker's Compensation Act shall be charged against his or her sick leave.
- B. If an employee shall be unable to perform his or her duties and shall be absent from work for a period greater than 10 consecutive working days by reason of temporary disability arising out of such a compensable injury or illness, which temporary disability is evidenced by the certificate of a physician employed by the Township or such other physician designated by the Township Council, the Council, by resolution, in its discretion may grant a special leave of absence to such employee for any part or all of the period of his or her absence exceeding such ten-day period, without any charge being made against the sick leave of such employee for the difference between his or her full pay and the compensation received under the Worker's Compensation Act.
- C. In the event that an employee's sick leave allowance has been exhausted, the Township Council may, by resolution, extend the period of full pay for such time as it may deem desirable, and for the period of such extension the amounts paid in excess of those covered by the Worker's Compensation Act allowance may be charged against the future sick leave allowance of the employee.
- D. In no case shall any employee receive full pay for any period exceeding one year commencing from the date of such illness or bodily injury.

§ 48-8. Accumulated sick leave. [Amended 5-10-1983 by Ord. No. 83-19; 5-23-2000 by Ord. No. 00-19; 10-24-2023 by Ord. No. O-23-36]

- A. Any regular salaried, hourly, daily, or weekly employee, hired on or after May 21, 2010, who shall retire from a state or locally administered retirement system shall have his or her accumulated sick

leave allowances converted to a lump sum payment capped at a maximum of \$15,000.

- B. In accordance with N.J.S.A. 40A:9-10.2, any accumulated sick leave by any regular salaried, hourly, daily or weekly employee, hired before May 21, 2010, that such accumulation of sick leave not exceeding 130 days shall be converted to a lump sum payment upon retirement from a state or locally administered retirement system. Accumulations of less than 1/2 day shall be disregarded. Accumulations of 1/2 day or more shall be credited at the rate of one full day.
- C. Accumulated sick leave for any officers or employees which are defined as "elected or appointed officials," hired on or before June 8, 2007, shall be compensated in accordance with N.J.S.A. 40A:9-10.2.
- D. Effective December 31, 2023, no employee or officer of the Township of Montclair shall be entitled to convert accumulated sick leave to terminal leave.³⁵

§ 48-9. Certification of sick leaves taken.

No later than the fifth business day of each month, the head of each department shall certify to the Township Manager all sick leaves taken by employees in such department during the calendar month immediately preceding. Such report, after approval by the Township Manager, shall immediately be forwarded to the office of the Chief Financial Officer.

§ 48-10. Duty of employees to seek medical advice.

Any employee to whom a sick leave allowance is granted will be expected to obtain suitable medical advice and to act in accordance therewith.

§ 48-11. Doctor's certificate required for certain leave.

Before making any payment on account of sick leave allowance for three days or more, the Township shall have the right to require the employee to furnish a certificate from a duly licensed attending physician stating the nature and gravity of the illness or injury and the probable duration of the absence.

§ 48-12. Periodic medical reports in certain cases.

If the absence continues beyond 10 days, the Township shall have the right to require at intervals, in its discretion and at its own expense, a satisfactory medical report by one or more physicians of the Township's own selection.

§ 48-13. Misconduct; abuse of sick leave privileges.

- A. Sick leave allowance may be withheld or discontinued in the case of any disabled employee guilty of misconduct or willful action prejudicial to the Township's interest or to the public welfare as determined by the Township Council, whose decision shall be final.
- B. Sick leave allowance shall be forfeited in the case of any employee shamming sickness and disability for work or otherwise guilty of malingering or fraud.

35. Editor's Note: Former § 40-10, Prior accumulations, was deleted 5-23-2000 by Ord. No. 00-19.

§ 48-14. Limitations of benefits.

No employee shall be entitled to any other benefits in connection with the plan established by this article other than as provided herein.

ARTICLE II

Vacations**§ 48-15. Vacation schedule. [Amended 9-18-1984 by Ord. No. 84-35; 11-10-1990 by Ord. No. 90-36]**

The following schedule is hereby adopted as the vacation schedule for all salaried and hourly rate employees of the Township of Montclair, other than employees who are members of a bargaining unit whose contract provides for vacations:

- A. Vacations shall accrue on January 1 of each year and shall be taken within one year thereafter. Accumulation of vacation time shall not be permitted, subject to the discretion and approval of the Township Manager, except: **[Amended 10-24-2023 by Ord. No. O-23-36]**
- (1) Vacation time or any part thereof not taken within a given calendar year by an employee due to the business demands of the Township shall be permitted to carry over into the next succeeding year only, provided that any vacation leave carried into a succeeding calendar year and not used in such calendar year shall be forfeited.
 - (2) Vacation time or any part thereof not taken in a given calendar year because of an employee's duties directly related to a state of emergency declared by the Governor may accumulate at the Township Manager's discretion until such vacation time is used.
- B. Regular full-time employees shall, in the year of hire from the date of commencement of employment and the end of the same calendar year, be entitled to receive vacation time equal to 1/2 of a working day for each full calendar month of employment; provided, however, that such vacation shall be taken before the end of the calendar year in which the employment began and after the completion of a ninety-day probation period. Where the probationary term extends into the following year, any vacation earned herein must be taken within 90 days after completion of the probationary term. **[Amended 10-24-2023 by Ord. No. O-23-36]**
- (1) Regular full-time employees shall receive in their second calendar year, who have earned them as of January 1 of such year following the commencement of their employment, vacation days in accordance with the following schedule:
 - (a) For those hired between January 1 and March 31 of the previous calendar year, 12 days of vacation.
 - (b) For those hired between April 1 and June 30 of the previous calendar year, nine days of vacation.
 - (c) For those hired between July 1 and December 1 of the previous calendar year, six days of vacation.
 - (2) Regular full-time employees shall receive in calendar years three, four and five of their employment a vacation of 12 working days.
 - (3) Regular full-time employees having five years or more but less than nine years shall receive a vacation of 14 working days.
 - (4) Regular full-time employees having nine years or more but less than 19 years shall receive a vacation of 17 working days.
 - (5) Regular full-time employees having 19 or more years shall receive a vacation of 22 working

days.

- C. The Township Manager, Deputy Manager(s), Director of Finance, Director of Planning and Community Development, Municipal Clerk, Township Attorney, Director of Community Services, Director of Health and Human Services, Director of Recreation and Cultural Affairs, Director Administration, Director of Code Enforcement, Chief Information Officer, Director of Water Bureau and Sewer Utility, Municipal Tax Assessor, Director of Human Resources and Municipal Judge shall be entitled to 26 days of vacation per year. **[Amended 5-23-2000 by Ord. No. 00-19; 6-15-2004 by Ord. No. 04-34; 10-24-2023 by Ord. No. O-23-36]**
- D. Any regular full-time employee who resigns, retires or whose employment is terminated for any reason other than just cause shall be entitled to a vacation in the year such employment ends on a prorated basis, computed by the length of service schedule set forth in Subsection B above and the number of full calendar months of employment subsequent to January 1 of the year in which such resignation or termination becomes effective.
- E. Additional vacation benefit for retirees hired before September 18, 1984. Any regular full-time employee hired before September 18, 1984, who retires from the service of the Township of Montclair in accordance with the Public Employees Retirement System (PERS) of the State of New Jersey shall be entitled to vacation in his or her final year of service totaling or equaling the full number of vacation days earned by the employee in his or her last year, based on length of service as set forth in Subsection B herein, without reduction or proration based on the number of calendar months worked in the year of retirement.
- F. Regular part-time employees shall be entitled to vacation days on a prorated basis in accordance with their respective work schedules and length of employment.
- G. Vacation schedules shall be arranged by the Director of each department, having due regard for the operating requirements of the department, the seniority of the employees and, insofar as practical, the requests of employees.
- H. Notwithstanding the foregoing, no employee shall receive any vacation credit for any period of time during which he/she is away from service using accumulated sick leave allowance for terminal leave or leaves of absence statutorily provided for in the Family Leave Act.³⁶

36. Editor's Note: See N.J.S.A. 34:11B-1 et seq.

Part 2**Fire Department Personnel****[Adopted 4-15-1980 By Ord. No. 80-12 As Part 2 Of Ch. 40 Of The 1979 Code]****ARTICLE III****Leaves of Absence Other Than Sick Leave****§ 48-16. Regular annual leave.**

- A. The Township Manager may grant leaves of absence to members of the Department during each year as follows: **[Amended 7-10-1990 by Ord. No. 90-37³⁷]**

Position	Working Days
Chief (based on 5-day weeks)	30
Administrative officer	16
Deputy Chief	16
Captain	15
Lieutenant:	
Less than 23 years of service	13
23 years of service but less than 25 years of service	14
25 years of service and thereafter	15
Fire fighter appointed prior to January 1, 1976:	
Less than 15 years of service	11
15 years of service but less than 21 years of service	12
21 years of service but less than 23 years of service	13
23 years of service but less than 25 years of service	14
25 years of service and thereafter	15
Fire fighter appointed after January 1, 1976:	
Upon completion of 1 year of service and for 4 years thereafter	8
Upon completion of 5 years of service, the schedule for fire fighters appointed prior to January 1, 1976, will apply	

- B. All regular leaves shall include regular off days.
- C. No regular leave shall be granted to any member after commencement of his or her terminal leave, for which provision is made in § 48-33.
- D. The dates for regular leaves shall be set each year by the Chief, subject to the approval of the Township Manager. No member shall change or trade his or her leave with another except by

37. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

permission obtained from the same authority.

§ 48-17. Effect of special leave.

Unless otherwise specified in or ordered pursuant to any provision of this article, a member granted special leave of absence as hereinafter provided in this article shall be entitled to be paid at the full rate and to have such special leave treated as exclusive of his or her regular annual leave of absence allowed under § 48-16 and as exclusive of his or her sick leave under Article IV of this chapter.

§ 48-18. Special leave for family illness or accident.

Each member of the Department may be allowed special leave of absence of not more than five days per year necessitated by illness of or accident to a person in the member's immediate family. A member's immediate family shall be deemed to mean his or her wife, child, father, mother, sister, brother, grandfather, grandmother or any other person making his or her home with the member's family in such degree as to cause him or her to be regarded as a member of the family. Application for such leave shall be in writing and addressed to the Chief. Any such leave shall be charged against the regular leave of absence of such member allowed under § 48-16.

§ 48-19. Special leave for death in family.

The Township Manager may grant special leave of absence to a member of the Department not to exceed five days in case of death in the immediate family of such member. Immediate family shall be deemed to include the persons mentioned in § 48-18. In case of death of a member's relative of a more remote degree, (uncle, aunt, niece, nephew, cousin or in-laws), special leave of one day may be granted upon proper application to the Chief.

§ 48-20. Special leave for emergency.

The Chief may grant, in cases of emergency only, special leaves of absence to members of the Department for a period not to exceed three days. The Chief shall report each such case promptly to the Township Manager.

§ 48-21. Other special leaves.

The Township Manager, may grant a member of the Department other or additional special leaves of absence for appropriate reasons, upon his or her written application. The application shall contain an accurate and definite statement of the reasons for requesting such leave. Misrepresentation in such request shall be severely punished. No special leave granted under this section shall exceed two weeks except with the authority of the Township Council, authorized by resolution. In each case under this section, the Township Manager shall determine whether or not such special leave shall be with or without pay and whether or not such special leave shall be charged in whole or in part against the regular annual leave of absence of such member allowed under § 48-16.

§ 48-22. Report of address while on leave.

Prior to absenting themselves on any leave granted under this chapter, members shall notify the Chief of their address while on leave.

§ 48-23. Conduct while on leave.

Members shall be held strictly responsible for any disorderly, disgraceful or unlawful conduct while on any leave granted under this chapter.

ARTICLE IV

Sick Leave**§ 48-24. Definitions.**

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

ANNUAL SICK LEAVE ALLOWANCE — The sick leave allowed under § 48-27.

DAY or DAYS — A working day or working days.

SICK LEAVE — The absence of a member for sickness.

SICK or SICKNESS — Illness or bodily injury arising from any cause, except illness or bodily injury incurred in the line of duty.

§ 48-25. Application of article.

For the purpose of sick leave allowances granted under this article, "sickness" shall be defined as illness or bodily injury from any cause.

§ 48-26. Compliance with rules and regulations.

Allowance for sick leave shall be made only in accordance with the provisions of this article and the rules and regulations relating to sick leave.

§ 48-27. Amount of sick leave per year.

Members of the Department shall be allowed 15 days of sick leave in each year, calculated on a calendar-year basis. Service as a member of the Department for any portion of a calendar year shall entitle such member to the 15 days' sick leave allowance in that calendar year.

§ 48-28. Pay during sick leave.

During sickness on permitted sick leaves as provided in § 48-27 and during leave for illness or death in the family as provided in §§ 48-18 and 48-19, pay shall be at the full rate so long as the member's current and accumulated sick leave time has not expired; provided, however, that such sick leave with pay during permitted sick leaves provided in § 48-27 shall not continue for any period exceeding one year commencing from the date of such sickness. In all cases of absence for personal sickness or injury, the Director of the Department may require the member, in order to qualify for sick leave at full pay, to present a statement signed by a physician employed by the Township or other approved physician, attesting to the fact that such member's absence from work was essential for the treatment and recovery from illness or bodily injury of such member.

§ 48-29. Reports.

No later than the fifth business day of each month, the Chief shall certify to the Township Manager all sick leaves taken by members of the Department during the calendar month immediately preceding. Such report, after approval by the Township Manager, shall immediately be forwarded to the office of the Chief Financial Officer.

§ 48-30. Worker's compensation.

- A. In the case of a member suffering any illness or bodily injury compensable under the New Jersey Worker's Compensation Act, such compensation as may be prescribed by said Worker's Compensation Act during the period of his or her temporary disability shall not be charged against his or her sick leave. He or she shall receive full pay in accordance with § 48-28, and only the difference between full pay and the compensation received under the Worker's Compensation Act shall be charged against his or her sick leave.
- B. If a member shall be unable to perform his or her duties and shall be absent from work for a period greater than 10 consecutive working days by reason of temporary disability arising out of such a compensable injury or illness, which temporary disability is evidenced by the certificate of a physician employed by the Township or such other physician designated by the Township Council, the Council, by resolution, in its discretion may grant a special leave of absence to such member for any part or all of the period of his or her absence exceeding such ten-day period, without any charge being made against the sick leave of such member for the difference between his or her full pay and the compensation received under the Worker's Compensation Act.
- C. In the event that a member's sick leave allowance has been exhausted, the Township Council may, by resolution, extend the period of full pay for such time as it may deem desirable, and for the period of such extension the amounts paid in excess of those covered by the Worker's Compensation Act allowance may be charged against the future sick leave allowance of the member.
- D. In no case shall any member receive full pay for any period exceeding one year commencing from the date of such illness or bodily injury.

§ 48-31. Accumulation of sick leave.

- A. Annual sick leave allowances not used by a regular member of the Department may be accumulated during the first 12 years of service, including service during his or her probationary year as a probationary fire fighter, up to and including 50% of the unused days of such sick leave allowance. Annual sick leave allowance not used for years subsequent to the first twelve-year period may be accumulated up to and including 75% of the unused days of such sick leave allowance. The total accumulation of unused sick leave shall not in any event exceed 225 days in the case of members whose employment with the Township commenced prior to January 1, 1963, and shall not exceed 130 days in the case of members whose employment with the Township commenced on or after January 1, 1963. No accumulation shall be permitted by a probationary fire fighter who is not appointed a regular member of the Department.
- B. For purposes of memorializing the unused days of annual sick leave allowance accumulated prior to November 25, 1952, the list heretofore prepared under the direction of the Chief, setting forth the names of all members of the Department and the number of unused days of sick leave, if any, accumulated by each as of December 31, 1951, which list was signed by each member in a space provided opposite his or her name and accumulation, shall for all purposes establish the accumulation, if any, of each member prior to the date of such list.

§ 48-32. Computation of accumulated leave.

Accumulation of unused annual sick leave allowance, as provided in § 48-31, shall be calculated or computed subject to the following provisions:

- A. For the purpose of accumulating unused annual sick leave allowance in the first calendar year of service, sick leave shall be computed on the basis of 1 1/4 days per month for months actually served

as a member, and the accumulation rate of 50% specified in § 48-31 shall be applicable only to such total of unused sick leave days.

- B. In computing years of service for the purpose of the increased accumulation rate of 75% specified in § 48-31, service of less than six months shall be disregarded and service of six months or more shall be regarded as one year's service.
- C. For the purpose of computing the unused days of the annual sick leave allowance, fractions of days less than 1/2 shall be disregarded and fractions of 1/2 or over shall be treated as a full day.
- D. In computing months of service as a member, service for any portion of a month shall be deemed to be service for the full month.

§ 48-33. Accumulated leave upon retirement.

- A. Any regular member of the Department who is in good health, is eligible for retirement and applies for retirement may convert accumulated sick leave allowance into a terminal leave at full pay, to be taken immediately preceding the effective date of his or her retirement.
- B. No vacation and no sick leave allowance shall accrue or be credited for or during any terminal leave period as above defined.
- C. In the case of all absences on account of sick leave, other than those compensable under the New Jersey Worker's Compensation Act, and in all cases of terminal vacation, each period of seven consecutive days of absence or terminal vacation shall be charged as five days of sick leave or terminal vacation, as the case may be, exclusive of legal holidays falling upon or being celebrated upon a working day.
- D. In no event shall any terminal vacation period, together with any other regular or special leave (including time-off days) to which a retiring member may be entitled, extend beyond 45 calendar weeks in the case of members whose employment with the Township commenced prior to January 1, 1963, or beyond 26 calendar weeks in the case of members whose employment with the Township commenced on or after January 1, 1963.

ARTICLE V
Time-Off Days

§ 48-34. Payment for time-off days upon death prior to retirement.

While every effort shall be made both by members and supervisory, personnel to keep the accumulation of time-off days at a minimum, in the event of the death of a member of the Department prior to retirement there shall be paid to his or her personal representative an amount equal to his or her daily rate of pay times the number of days of his or her accumulated time-off days; provided, however, that in no event shall payment be made for more than 15 time-off days. In computing time-off days, hours owed shall be converted into days at the rate of eight hours per day. Fractions of days in excess of 1/2 day shall be treated as a full day. Fractions of days less than 1/2 day shall be disregarded.

Part 3
Police Department Personnel
[Adopted 4-15-1980 By Ord. No. 80-12 As Part 3 Of Ch. 40 Of The 1979 Code]

ARTICLE VI
Leaves of Absence Other Than Sick Leave

§ 48-35. Regular annual leave.

- A. The Township Manager may grant leaves of absence to members of the Department during each year as follows: **[Amended 7-10-1990 by Ord. No. 90-38]**

Position	Working Days
Chief	30
Deputy Chief	29
Captain	24
Lieutenant	20
Sergeant:	
20 or more years of service	20
Less than 20 years of service	19
Patrolman appointed prior to January 1, 1975:	
19 years of service or less	15
20 years of service and thereafter	20
Patrolman appointed after January 1, 1976:	
Upon completion of 1 year of service and for 4 years thereafter	10
Upon completion of 5 years of service through 19 years of service	15
20 years of service and thereafter	20

- B. The date for regular leaves shall be set each year by the Chief, subject to the approval of the Township Manager. No member shall change or trade his or her leave with another except by permission obtained from the same authority.

§ 48-36. Effect of special leave.

Unless otherwise specified in or ordered pursuant to any provision of this article, a member granted special leave of absence as hereinafter provided in this article shall be entitled to be paid at the full rate and to have such special leave treated as exclusive of his or her regular annual leave of absence allowed under § 48-35 and as exclusive of his or her sick leave under Article VII of this chapter.

§ 48-37. Special leave for family illness or accident.

Each member of the Department may be allowed special leave of absence of not more than five days

per year necessitated by illness of or serious accident to a person in the member's immediate family. A member's immediate family shall be deemed to mean his or her wife, child, father, mother, sister, brother, grandfather, grandmother or any other person making his or her home with the member's family in such degree as to cause him or her to be regarded as a member of the family. Application for such leave shall be in writing addressed to the Chief. Any such leave shall be charged against the regular annual leave of absence of such member allowed under § 48-35.

§ 48-38. Special leave for death in family.

The Township Manager may grant special leave of absence to a member of the Department not to exceed five days in case of death in the immediate family of such member. Immediate family shall be deemed to include the persons mentioned in § 48-37. In case of death of a member's relative of more remote degree (uncle, aunt, niece, nephew, cousin or in-laws), special leave of one day may be granted upon proper application to the Chief.

§ 48-39. Special leave for emergency.

The Chief may grant, in cases of emergency only, special leave of absence to members of the Department for a period not to exceed three days. The Chief shall report each such case promptly to the Township Manager.

§ 48-40. Other special leaves.

The Township Manager may grant a member of the Department other or additional special leaves of absence for appropriate reasons, upon his or her written application. The application shall contain an accurate and definite statement of the reasons for requesting such leave. Misrepresentation in such request shall be severely punished. No special leave granted under this section shall exceed two weeks except with the authority of the Township Council, declared in a resolution. In each case under this section, the Township Manager shall determine whether or not such special leave shall be with or without pay and whether or not such special leave shall be charged in whole or in part against the regular annual leave of absence of such member allowed under § 48-35.

§ 48-41. Report of address while on leave.

Prior to absenting themselves on any leave granted under this chapter, members shall notify the Chief of their address while on leave.

§ 48-42. Conduct on leave.

Members shall be held strictly responsible for any disorderly, disgraceful or unlawful conduct while on any leave granted under this chapter.

ARTICLE VII

Sick Leave**§ 48-43. Definitions.**

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

ANNUAL SICK LEAVE ALLOWANCE — The sick leave allowed under § 48-46.

DAY or DAYS — A working day or working days.

SICK LEAVE — The absence of a member for sickness.

SICK or SICKNESS — Illness or bodily injury arising from any cause, except illness or bodily injury incurred in the line of duty.

§ 48-44. Application of article.

For the purpose of sick leave allowances granted under this article, "sickness" shall be defined as illness or bodily injury from any cause.

§ 48-45. Compliance with rules and regulations.

Allowance for sick leave shall be made only in accordance with the provisions of this article and the rules and regulations relating to sick leave.

§ 48-46. Amount of sick leave per year.

Members of the Department shall be allowed 15 days of sick leave in each year, calculated on a calendar-year basis. Service as a member of the Department for any portion of a calendar year shall entitle such member to the 15 days' sick leave allowance in that calendar year.

§ 48-47. Pay during sick leave.

During sickness on permitted sick leaves as provided in § 48-46 and during leave for illness or death in the family as provided in §§ 48-37 and 48-38, pay shall be at the full rate so long as the member's current and accumulated sick leave time has not expired; provided, however, that such sick leave with pay during permitted sick leaves provided in § 48-46 shall not continue for any period exceeding one year commencing from the date of such sickness or injury. In all cases of absence for personal sickness or injury, the Director of the Department may require the member, in order to qualify for sick leave at full pay, to present a statement signed by a physician employed by the Township or other approved physician, attesting to the fact that such member's absence from work was essential for the treatment and recovery from illness or bodily injury of such member.

§ 48-48. Reports.

No later than the fifth business day of each month, the Chief shall certify to the Township Manager all sick leaves taken by members of the Department during the calendar month immediately preceding. Such report, after approval by the Township Manager, shall immediately be forwarded to the office of the Chief Financial Officer.

§ 48-49. Worker's compensation.

- A. In the case of a member suffering any illness or bodily injury compensable under the New Jersey Worker's Compensation Act, such compensation as may be prescribed by said Worker's Compensation Act during the period of his or her temporary disability shall not be charged against his or her sick leave. He or she shall receive full pay in accordance with § 48-47 and only the difference between full pay and the compensation received under the Worker's Compensation Act shall be charged against his or her sick leave.
- B. If a member should be unable to perform his or her duties and shall be absent from work for a period greater than 10 consecutive working days by reason of temporary disability arising out of such a compensable injury or illness, which temporary disability is evidenced by the certificate of a physician employed by the Township or such other physician designated by the Township Council, the Council, by resolution, in its discretion may grant a special leave of absence to such member for any part or all of the period of his or her absence exceeding such ten-day period, without any charge being made against the sick leave of such member for the difference between his or her full pay and the compensation received under the Worker's Compensation Act.
- C. In the event that a member's sick leave allowance has been exhausted, the Township Council may, by resolution, extend the period of full pay for such time as it may deem desirable, and for the period of such extension the amounts paid in excess of those covered by the Worker's Compensation Act allowance may be charged against the future sick leave allowance of the member.
- D. In no case shall any member receive full pay for any period exceeding one year commencing from the date of such illness or bodily injury.

§ 48-50. Accumulation of sick leave.

- A. Annual sick leave allowances not used by a regular member of the Department may be accumulated during the first 12 years of service, including service during his or her probationary year as a probationary patrolman, up to and including 50% of the unused days of such sick leave allowance. Annual sick leave allowance not used for years subsequent to the first twelve-year period may be accumulated up to and including 75% of the unused days of such sick leave allowance. The total accumulation of unused sick leave shall not in any event exceed 225 days in the case of members whose employment with the Township commenced prior to January 1, 1963, and shall not exceed 130 days in the case of members whose employment with the Township commenced on or after January 1, 1963. No accumulation shall be permitted by a probationary patrolman who is not appointed a regular member of the Department.
- B. For purposes of memorializing the unused days of annual sick leave allowance accumulated prior to May 2, 1950, a list shall be prepared under the direction of the Chief, setting forth the names of all regular members of the Department and the number of unused days of annual sick leave, if any, accumulated by each as of May 2, 1950. The list shall be signed by each member in a space provided opposite his or her name and accumulation. Said list, when duly signed, shall for all purposes establish the accumulation, if any, of each member prior to May 2, 1950.

§ 48-51. Computation of accumulated leave.

Accumulation of unused annual sick leave allowance, as provided in § 48-50, shall be calculated or computed subject to the following provisions:

- A. For the purpose of accumulating unused annual sick leave allowance in the first calendar year of service, sick leave shall be computed on the basis of 1 1/4 days per month for months actually served

as a member, and the accumulation rate of 50% specified in § 48-50 shall be applicable only to such total of unused sick leave days.

- B. In computing years of service for the purposes of the increased accumulation rate of 75% specified in § 48-50, service of less than six months shall be disregarded, and service of six months or more shall be regarded as one year's service.
- C. For the purposes of computing the unused days of the annual sick leave allowance, fractions of days less than 1/2 shall be disregarded and fractions of 1/2 or over shall be treated as a full day.
- D. In computing months of service as a member, service for any portion of a month shall be deemed to be service for the full month.

§ 48-52. Accumulated leave upon retirement.

- A. Any regular member of the Department who is in good health, is eligible for retirement and applies for retirement may convert his or her accumulated sick leave allowance into a terminal leave at full pay, to be taken immediately preceding the effective date of his or her retirement.
- B. No vacation and no sick leave allowance shall accrue or be credited for or during any terminal leave period as above defined.
- C. In the case of all absences on account of sick leave, other than those compensable under the New Jersey Worker's Compensation Act, and in all cases of terminal vacation, each period of seven consecutive days of absence or terminal vacation shall be charged as five days of sick leave or terminal vacation, as the case may be, exclusive of legal holidays falling upon or being celebrated upon a working day.
- D. In no event shall any terminal vacation period, together with any other regular or special leave (including time-off days) to which a retiring member may be entitled, extend beyond 45 calendar weeks in the case of members whose employment with the Township commenced prior to January 1, 1963, or beyond 26 calendar weeks in the case of members whose employment with the Township commenced on or after January 1, 1963.

ARTICLE VIII

Time-Off Days**§ 48-53. Payment for time-off days upon death prior to retirement.**

While every effort shall be made both by members and supervisory personnel to keep the accumulation of time-off days at a minimum, in the event of the death of a member of the Department prior to retirement there shall be paid to his or her personal representative an amount equal to his or her daily rate of pay times the number of days of his or her accumulated time-off days; provided, however, that in no event shall payment be made for more than 15 time-off days. In computing time-off days, hours owed shall be converted into days at the rate of eight hours per day. Fractions of days in excess of 1/2 day shall be disregarded.

POLICE DEPARTMENT

Chapter 51

POLICE DEPARTMENT

[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. 44 of the 1979 Code; amended in its entirety 5-23-2000 by Ord. No. 00-19. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 27.

Personnel regulations — See Ch. 48, Part 3.

Mutual police assistance — See Ch. 40.

Salaries and compensation — See Ch. 55.

ARTICLE I
General Provisions

§ 51-1. Definitions.

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

APPROPRIATE AUTHORITY — Township Manager.[Added 5-23-2017 by Ord. No. O-17-018]

CHIEF — The Chief of the Police Department of the Township.

DEPARTMENT — The Police Department of the Township.

MANAGER — The Township Manager, Chief Executive Officer of the Township.

MEMBERS or MEMBERS OF THE DEPARTMENT — All regular and probationary members of the Police Department of the Township irrespective of rank or duty.

OFFICER — A member of the Department of the rank of Sergeant or higher.

PHYSICIAN or DEPARTMENT PHYSICIAN — The physician appointed by the Township.

REGULAR MEMBER or REGULAR MEMBERS OF THE DEPARTMENT — All members of the Police Department irrespective of rank or duty, except probationary patrolmen.

RULES AND REGULATIONS or ADMINISTRATIVE RULES AND REGULATIONS — The administrative rules and regulations promulgated by the Chief of Police as provided in this article.

§ 51-2. Promulgation of rules and regulations.

The Manager shall, from time to time, promulgate administrative rules and regulations in the manner provided in § 51-3. They shall provide in detail for the management, operation and conduct of the Police Department and its members and shall implement the provisions of this chapter. The rules and regulations so promulgated shall be binding on the Police Department and its members equally with the provisions of this chapter.

§ 51-3. Procedure for promulgation of rules.

A. Rules and regulations shall be deemed promulgated when:

- (1) Issued in writing;
- (2) Signed by the Manager and Chief;
- (3) Filed in the office of the Municipal Clerk; and
- (4) A copy thereof is posted on the departmental bulletin board.

B. Thereafter such rules and regulations shall be in effect and binding.

§ 51-4. Continuation of existing rules.

The rules and regulations promulgated by the Director on May 2, 1950, as amended and supplemented, are continued in full force and effect and shall be deemed to implement this chapter. The Manager may amend or repeal all or any part of such rules and regulations or may make and establish such new or additional rules and regulations as may be expedient and proper for the better conduct efficiency or management of the Department.

§ 51-5. Familiarity of police with rules; copies.

It shall be the duty of every member of the Department to familiarize himself or herself with this chapter and with the rules and regulations, together with any changes, additions or amendments thereof. For that purpose, a copy of this chapter and of the rules and regulations in printed form shall be issued to each member of the Department.

ARTICLE II
Establishment and Organization

§ 51-6. Continuation of Department; composition. [Amended 12-9-2014 by Ord. No. O-14-041]

The paid Police Department as heretofore established is hereby continued. The Department shall be composed of one Chief, and not more than two Deputy Chiefs, five Captains, 11 Lieutenants, 14 Sergeants, 120 patrol officers, and such probationary patrol officers and other personnel as the Manager from time to time may determine are essential to be appointed under this chapter in order to meet the police needs of the Township.

§ 51-7. General powers and duties of Manager.

The Manager shall have full administrative control of the Police Department and of its members. He or she is directed and authorized:

- A. To promulgate from time to time, as provided in Article I of this chapter, such administrative rules and regulations as may be necessary for the efficient management and operation of the Department.
- B. To enforce the provisions of this chapter and of the rules and regulations governing the Department.
- C. To authorize the examination of applicants for positions in the Department in accordance with this chapter and the rules and regulations, and, with the assistance of the Chief, to select from such applicants the persons best qualified for the positions to be filled.
- D. To appoint persons to the Department.
- E. To receive from the Chief charges preferred against any member of the Department.
- F. To try all members against whom charges have been preferred and to impose such punishment as may be commensurate with the offense charged and proved.
- G. To make all promotions after an examination has been given in accordance with this chapter and the rules and regulations.
- H. To receive from the Chief his or her annual report and recommendations and to submit the same to the Township Council with recommendations.

§ 51-8. General powers and duties of Chief. [Amended 5-23-2000 by Ord. No. 00-19; 5-23-2017 by Ord. No. O-17-018; 11-18-2019 by Ord. No. O-19-036]

The Chief shall be the executive head of the Department. He or she shall exercise sole and complete control over the Department, its members and employees and over its property, subject only to the authority of the Manager. The Chief shall be directly responsible to the Manager for the conduct, efficiency and management of the Department. The Chief shall be charged with the preservation of the public peace and the protection of life and property in the Township. He or she shall be charged with the responsibility of causing the laws of the state and the ordinances of the Township to be strictly and impartially enforced. The Township Manager shall appoint a Chief of Police who shall have all of the powers set forth in N.J.S.A. 40A:14-118. In addition to any other powers conferred on the Chief by the laws of the State of New Jersey, the Chief shall, pursuant to policies established by the appropriate authority:

- A. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel;

- B. Have, exercise, and discharge the functions, powers and duties of the force;
- C. Prescribe the duties and assignments of all subordinates and other personnel;
- D. Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his direction and supervision; and
- E. Report at least monthly to the appropriate authority in such form as shall be prescribed by such authority on the operation of the force during the preceding month, and make such other reports as may be requested by such authority.

§ 51-9. Acting Chief.

In the absence of the Chief from duty, the Manager may designate a qualified member of the Department to act in his or her place. Such person shall be named as Acting Chief of Police.

§ 51-10. Internal organization of Department.

Upon authorization by the Manager, the Chief may create within the Department organizational units such as sections, departments, bureaus or schools, as may be deemed necessary or desirable to increase the efficiency and management of the Department. Such units shall perform duties and functions as directed by the Chief and in accordance with this chapter and the rules and regulations of the Department. Said units shall be under the immediate supervision of such members of the Department as the Chief shall nominate. Such supervisory personnel shall be directly responsible to the Chief for the functioning and efficiency of the respective units.

ARTICLE III

Special and Deputy Police and Civilian Employees**§ 51-11. Nondepartmental status.**

Special police, deputy police and civilian employees appointed under the provisions of this chapter shall not be members of the Department. They shall not be entitled to participate in the Police Pension Fund or to receive the benefits of tenure of office as provided in N.J.S.A. 40A:14-128 and 40A:14-147, as amended.

§ 51-12. Appointment and authority of special police.

- A. The Manager, after investigation and report by the Chief as to qualifications, may appoint for one-year terms persons to be known as "special police." Special police shall be vested with special police authority in accordance with the rules and regulations. They shall take the oath of office prescribed for members of the Department. They shall wear an authorized badge at all times while on duty.
- B. Special police shall be divided into two classes, in accordance with the rules and regulations, to be known as "Class A" and "Class B," respectively. Class A special police shall be paid by the Township in accordance with the Township's Salary Ordinance.³⁸ Class B special police shall be paid by their respective employers, not by the Township.

§ 51-13. Appointment and duties of deputy police.

The Manager, upon recommendation of the Chief, may appoint for one-year terms citizens of the Township to be known as "deputy police" and to serve as a police reserve. The police reserve may be utilized in such emergencies as the Chief may determine, and, in addition thereto, in such other situations as to which the Manager gives final approval and authority for the use of such services. While on duty, such deputy police may perform the duties of and shall have the powers of members of the Department. Deputy police shall take the oath of office prescribed for members of the Department. They shall wear an authorized badge at all times while on duty. Deputy police shall serve without pay unless otherwise ordered by the Township Council.

§ 51-14. Civilian employees.

When authorized by the Manager, the Chief may employ persons to work under the direction of the Police Department. Such persons shall perform duties as may be directed by the Chief, and they shall be paid by the Township in accordance with the Salary Ordinance.³⁹

38. Editor's Note: See Ch. 55, Salaries and Compensation.

39. Editor's Note: See Ch. 55, Salaries and Compensation.

ARTICLE IV

Appointment of Regular Members and Probationary Patrolmen**§ 51-15. Application; examination; training.**

- A. No person shall be appointed a probationary or regular member of the Department unless he or she has first made proper application and has been examined as prescribed in the Selection Policy of the Department relating to qualifications for appointment. **[Amended 5-23-2017 by Ord. No. O-17-018]**
- B. No person shall hereafter be given or accept a permanent appointment as a regular member of the Department unless he or she first has successfully completed a police training course at a school approved and authorized by the Police Training Commission in the Department of Law and Public Safety of the State of New Jersey, pursuant to the provisions of Chapter 56 of the Laws of New Jersey of 1961, as supplemented and amended (N.J.S.A. 52:17B-66 et seq.).

§ 51-16. Qualifications. [Amended 5-23-2017 by Ord. No. O-17-018]

No person shall be appointed to the Department unless he or she possesses the qualifications for appointment provided by law and complies with the requirements of this article.

§ 51-17. Probationary appointment; dismissal. [Amended 5-23-2017 by Ord. No. O-17-018]

Any person appointed to the Department shall be first appointed as a probationary patrolman to serve for a probationary period of one year. During such year probationary patrol officers shall obey all the provisions of this chapter and of the Selection Policy of the Department. Probationary patrol officers shall not be entitled to enjoy the benefits of tenure of office as provided in N.J.S.A. 40A:14-128 and 40A:14-147, as amended. If at any time during the probationary year the Manager shall determine that a probationary patrol officer's performance does not meet the standards for regular membership in the Department, he or she shall dismiss such probationary patrol officer. Such dismissal shall terminate the services of the probationary patrol officer in the Department.

§ 51-18. Report of Chief. [Amended 5-23-2017 by Ord. No. O-17-018]

At the completion of the probationary period, the Chief shall submit a written report to the Manager, stating in detail the qualifications of the probationary patrol officer for appointment as a regular member of the Department and his or her recommendations as to whether such appointment should be made.

§ 51-19. Deception by applicant.

Any deception or attempt at deception by an applicant in his or her application or in any phase of his or her candidacy shall be cause for rejection or for dismissal if discovered after appointment.

§ 51-20. Oath of office.

Upon appointment as a probationary patrolman or as a regular member of the Department, every appointee shall subscribe to and take the oath of office prescribed by law.

ARTICLE V
Salaries

§ 51-21. Regular salaries and longevity pay.

The salaries and rates of longevity pay of the members of the Police Department shall be as provided from time to time in an ordinance adopted by the Township Council.

§ 51-22. Designation of Acting Chief; compensation.

During any period that the Chief of the Department shall be on terminal leave as defined in § 48-52 of Chapter 48, Personnel Regulations, the Manager may designate an officer of the Department as Acting Chief to serve at the pleasure of the Manager; and for the period that such officer is assigned to and is actually performing the duties of Acting Chief, he or she shall be paid at such rate of pay as shall be fixed by the Manager, in writing, which rate of pay shall be not less than the salary applicable to the permanent rank held by such officer and not more than the salary fixed for the position of Chief of the Department for the first year. The provisions of this section shall take effect January 1, 1966.

§ 51-23. Bonus of Detective Bureau and Special Service Bureau.

Due to the additional and irregular hours of duty and the increased hazards of the work, all patrolmen and all officers, other than officers above the rank of Captain, assigned to the Detective Bureau or to the Special Service Bureau shall receive a bonus at the rate of \$150 per year, commencing January 1, 1966. Such bonus shall be paid only so long as such member of the Department is actually assigned to and performing duty with the Detective Bureau or with the Special Service Bureau.

ARTICLE VI
Promotions

§ 51-24. Methods of promotion. [Amended 4-13-1993 by Ord. No. 93-18]

Promotions from one rank or grade to the next higher one may be made as vacancies occur. Except for promotion to Chief and Deputy Chief, promotions shall be made in accordance with the result of examinations as prescribed in the rules and regulations relating to promotion. Promotion to Chief and Deputy Chief shall be solely by appointment of the Township Manager, without requiring an examination.

§ 51-25. Assignment to particular duty not to constitute promotion.

Assignment or reassignment to duty with any bureau or other detail in accordance with § 51-28 shall not constitute, in itself, a promotion.

ARTICLE VII
Police Operations

§ 51-26. Direction of operations by Chief.

Tours of duty, time of reporting, special assignments, changes of assignment and all details in connection with the time and circumstances of duties shall be as directed by the Chief and as provided in the rules and regulations.

§ 51-27. Hours of regular tours of duty.

- A. Unless otherwise ordered by the Manager, regular tours of duty in the Department shall consist of eight hours in a twenty-four-hour period.
- B. Extra duty.
 - (1) Any member of the Department may request extra duty in addition to his or her regular tours of duty. Whenever the Chief finds that the needs of the Department are such as to require the assignment of a member or members of the Department to extra duty, he or she may, in his or her discretion, assign such extra duty to such member or members of the Department who have so requested extra duty; provided, however, that in no case shall the days of employment of any uniformed member exceed six days in any one week, except in the case of an emergency.
 - (2) Any member of the Department who shall perform extra duty under this section shall receive compensation therefor at his or her regular rate of salary, prorated. The performance of such extra duty shall not entitle any member to credit on account of sick leave or days off.
- C. The provisions of this section shall not be applicable to any emergency or to the recall of any member of the Department during the period of such emergency.

§ 51-28. Assignments and reassignments.

Members of the Department may be assigned to duty with the Detective Bureau, Record Bureau, traffic squad or other detail, and they may be reassigned to other duty, as the best interests of the Department may require.

§ 51-29. Substitutes for absent command officers.

In the absence of officers in charge of any command, other officers or senior patrolman shall be designated to perform their duties.

§ 51-30. Special duty assignments.

Members of the Department shall normally be used in the regular service; provided, however, that the Chief, whenever in his or her opinion the public welfare requires it, may detail any member of the Department for any special or particular duty connected with the police service of the Township.

§ 51-31. Emergency recall.

All members of the Department, while off duty, shall be subject to recall to duty in times of emergency by direction of the Chief.

§ 51-32. Cooperation with other departments.

Subject to the authority of the head of each department of the Township to investigate violations of any ordinance within his or her jurisdiction and to cause prosecutions thereof, the Police Department shall cooperate with such department head in such investigation and prosecution to the fullest extent, to the end that a fair and complete hearing on the case may be had. The Police Department and every member thereof shall assist the other Township departments in all other ways not inconsistent with their police duties.

§ 51-33. Outside activities.

Members of the Department shall not engage in any business or occupation which may divert their attention from police service or handicap or render them unable to perform the duties required of them.

§ 51-34. Maintenance of prisoners.

Members of the Department shall be responsible for the safekeeping and humane treatment of prisoners in their custody or under their supervision. Prisoners shall be maintained and regulated as prescribed in the rules and regulations.

§ 51-35. Disposition of unclaimed property.⁴⁰

All goods and chattels other than motor vehicles which shall come into the possession of the Police Department by finding or by being recovered after theft or robbery and which shall remain in the possession of the Department for six months, and all motor vehicles which similarly shall come into and remain in the possession of the Department for three months, and the owner or owners of which are unknown and cannot be found or refuse to receive such goods or chattels or motor vehicles, may, in whole or in part, be exposed for sale by the Township Council at public auction in a public place after notice of the sale shall have been published in a newspaper circulating in the Township. Goods and chattels of a perishable nature so held may be sold as promptly as may be necessary to avoid loss. All moneys received from the sale of any goods and chattels shall be paid into the treasury of the Township. All unclaimed moneys coming into the possession of the Police Department shall, after six months, be paid into the treasury.

40. Editor's Note: For statutory provisions regarding the disposition of unclaimed property, see N.J.S.A. 40A:14-157.

ARTICLE VIII
Charges and Trials

§ 51-36. Bringing of charges.

Charges may be preferred against any member of the Department by any officer of the Department or by any private citizen for the violation of any provision of this chapter or of the rules and regulations.

§ 51-37. Procedure; notice to accused.

Charges shall be prepared, filed and served and the date fixed for trial in accordance with law. In addition to the procedure provided by law, the accused shall be notified in writing at the time of service upon him or her of a copy of the charge or charges, of his or her right to obtain counsel and to have witnesses appear on his or her behalf at the trial.

§ 51-38. Subpoenas for witnesses; service.

Subpoenas for any witnesses for either the Department or the accused may be issued as provided by law. Subpoenas shall be served by a uniformed member of the Department, preferably an officer.

§ 51-39. Trial procedure.

The trial shall be conducted by and before the Manager or designee. It shall be conducted in public unless public trial is waived by the accused. At the trial, the Manager shall first read the charge or charges and shall ask for and record the plea of the accused to each charge. All witnesses shall be sworn before testifying. A record shall be kept of the names and addresses of all witnesses.

§ 51-40. Written decisions.

The decision or sentence of the Manager or designee after trial shall be rendered in writing, in triplicate. One copy shall be delivered to the accused.

§ 51-41. Suspension pending trial.

Pending trial on charges, the Chief may suspend the accused member. He or she shall not be restored to duty pending trial except by order of the Manager.

ARTICLE IX
Uniforms and Equipment

§ 51-42. Issuance to probationary patrolmen.

The Township shall furnish to each probationary patrolman one complete set of uniform clothing and equipment in accordance with the requirements established by the Chief. All such clothing and equipment shall be and remain the property of the Township until such time as the probationary patrolman shall be appointed and become a regular patrolman of the Department.

§ 51-43. Uniform clothing allowance.

Regular members of the Department shall be entitled to receive a sum not in excess of \$290 per annum to assist in providing for and maintaining the necessary uniform clothing.

§ 51-44. Issuance of personal equipment; care and maintenance.

All members of the Department shall receive such personal equipment as may be authorized under this chapter and the rules and regulations or as directed by the Chief. They shall be responsible for the safekeeping, care, maintenance, serviceable condition and proper use of such equipment. Personal equipment shall not be altered or defaced in any manner.

§ 51-45. Wearing and care of uniforms.

All probationary patrolmen and uniformed members of the Department, upon reporting for duty and while on duty, shall wear the uniforms prescribed in the rules and regulations and shall at all times keep the same clean and in a state of good repair. No member of the Department shall wear the uniform or any part of it while not on duty.

§ 51-46. Carrying of equipment.

Personal equipment shall be carried on the person of the member while on duty as prescribed by the rules and regulations. Every member of the Department off duty and not on leave shall carry his or her badge, revolver, whistle and signal box key at all times unless otherwise directed by the Chief.

§ 51-47. Return of uniforms and equipment.

In the event that the employment of a probationary patrolman shall terminate or be terminated for any reason prior to his or her appointment and his or her acceptance of such appointment as a regular patrolman of the Department, all of his or her uniform clothing and equipment shall be immediately surrendered to the Chief by such probationary patrolman. All articles of equipment issued to any member of the Department shall be returned to the Department upon the expiration of service due to discharge, retirement, death or resignation.

ARTICLE X

Private and Quasi-Public Functions
[Added 6-9-2009 by Ord. No. O-021-09]**§ 51-48. Furnishing of off-duty police officers.**

The Chief of Police is hereby authorized to furnish off-duty police officers to serve private or quasi-public functions upon written request received from such party and upon such party's agreement to pay the charges therefor as set forth in this article. The Chief of Police is further authorized in the case of emergencies to accept oral requests for such services.

§ 51-49. Police Department rates. [Amended 10-16-2012 by Ord. No. O-12-53; 11-18-2019 by Ord. No. O-19-036]

- A. The person or organization requesting the services of a member of the Township Police Department provided for in § 51-48 shall be charged and pay for such service. In the event that the person or organization requesting the service requires the utilization of a Police Department patrol car, there shall be an additional charge for each patrol car utilized. All sums received on account of such service shall be paid to the Chief Financial Officer of the Township and shall be used for reimbursement through the appropriate municipal account.
- B. Rates charged.
- (1) The person or organization requesting the service of a member of the Township Police Department provided for in § 51-48 shall be charged and pay for such service at the then current hourly rate established by the Township Manager, which rate shall be equal to the hourly rate set forth in the applicable contract between the Township and the Patrolmens' Benevolent Association (PBA), plus an administrative fee of \$10 per hour.
 - (2) All sums received on account of such service shall be paid to the Chief Financial Officer and shall be used for reimbursement through the appropriate municipal account.
 - (3) The fee for the use of police vehicles shall take into account the Township's costs related to the operation of the vehicle and be fixed at \$100 minimum for up to four hours and \$15 per hour or part thereof for use of the vehicle after the first four hours.

§ 51-50. Furnishing of off-duty firefighters or other Fire Department personnel.⁴¹

The Fire Chief is hereby authorized to furnish off-duty firefighters or other fire department personnel when requested or required by private or quasi-public property owners or businesses for purposes of ensuring compliance with applicable fire codes, construction codes or other regulations.

§ 51-51. Fire Department rates.

- A. The person or organization requesting or requiring the services of a member of the Township Fire Department pursuant to § 51-48 shall be charged and pay for such service. All sums received on account of such service shall be paid to the Chief Financial Officer of the Township and shall be used for reimbursement through the appropriate municipal account.
- B. Rates charged.

41. Editor's Note: See Ch. 27, Fire Department.

- (1) The person or organization requesting the service of a member of the Township Fire Department provided for in § 51-50 shall be charged and pay for such service at the then current hourly rate established by the Township Manager, which rate shall be equal to the hourly rate set forth in the applicable contract between the Township and the Firemen's Mutual Benevolent Association (FMBA), plus an administrative fee of \$4 per hour.
- (2) All sums received on account of such service shall be paid to the Chief Financial Officer and shall be used for reimbursement through the appropriate municipal account.

ARTICLE XI

Protective Custody**[Added 10-19-2010 by Ord. No. O-10-058]****§ 51-52. Protective custody for persons arrested for operating motor vehicle in violation of N.J.S.A. 39:4-50.**

- A. Any person arrested for operating a motor vehicle in violation of N.J.S.A. 39:4-50 shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself/herself or others. The arrested person shall be released from protective custody when that person's blood alcohol concentration is less than 0.05 percent, the person is no longer under the influence of any intoxicating liquor or narcotic, hallucinogenic or habit-forming drug to the extent that the person's faculties are impaired.
- B. In no event shall the Police Department hold a person arrested for operating a motor vehicle in violation of N.J.S.A. 39:4-50 in protective custody as set forth in this section for a period of longer than eight hours without providing an appropriate hearing before a Municipal Court Judge.
- C. Notwithstanding the provisions of this section, provided that it is not a detriment to the public safety, the Police Department may, because of the age, health or safety of the arrested person, release the person pursuant to the provisions of N.J.S.A. 39:4-50.22 et seq. or provide an appropriate alternative to protective custody. The Township, its Police Department, and the individual police officers and representatives shall be immune from liability of any kind if a person is released from custody pursuant to the provisions of this Subsection C.
- D. Nothing in this article shall be construed as requiring the use of state police facilities by the Township for the purposes of this article.

ARTICLE XII
Police Chaplain
[Added 3-7-2017 by Ord. No. O-17-007]

§ 51-53. Position created.

The position of Police Chaplain for the Township of Montclair Police Department is hereby created in accordance with N.J.S.A. 40A:14-141. The position will be a volunteer position. The position of Chaplain shall be under and subject to the control of the Chief of Police. The number of Police Chaplains is in the discretion of the Manager.

§ 51-54. Appointment.

Police Chaplains shall be appointed by the Manager upon recommendation by the Chief of Police.

§ 51-55. Qualifications.

Any person appointed as Chaplain shall be an ordained clergyman in good standing in the religious body from which he/she is selected. The Chaplain shall have basic training and shall be a certified Police Chaplain credentialed in accordance with the rules and regulations of the Police Department. A Chaplain shall meet the qualifications of N.J.S.A. 40A:14-141.

§ 51-56. Duties.

The duties of Police Chaplain shall include but not be limited to assisting the Police Department in death notifications, station house adjustments and any other duties that may be assigned by the Chief of Police.

§ 51-57. Rank and salary.

Any person appointed as Chaplain shall serve in that capacity without rank or salary.

§ 51-58. Term of office.

A person appointed as Chaplain shall serve at the pleasure of the Manager.

Chapter 51A**PROJECT LABOR AGREEMENTS**

[HISTORY: Adopted by the Township Council of the Township of Montclair 7-23-2019 by Ord. No. O-19-024. Amendments noted where applicable]

§ 51A-1. Purpose.

This chapter shall ensure that large construction projects with total costs that exceed \$5,000,000, excluding land acquisition costs and certain public construction contracts with total costs that exceed \$5,000,000 that the municipality directly undertakes or for which it provides financial support, are performed promptly, at a reasonable cost and with the highest degree of quality. This chapter also creates opportunities to employ a substantial number of apprentices, thus ensuring that these projects will expand access to living wages careers in the construction trades for a new generation of workers Projects which exceed the \$5,000,000 threshold during the pendency of the project shall also be subject to this chapter.

§ 51A-2. Definitions.

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

APPRENTICE — A worker who participates in a federally-approved apprenticeship program or as an apprentice equivalent participates in a federally-approved training program, takes a construction apprenticeship test and receives benefits and pay not less than those received by an apprentice.

APPRENTICE PROGRAM — An apprenticeship program operated by an entity registered by the Bureau of Apprenticeship and Training of the United States Department of Labor or registered by a federal apprenticeship agency recognized by the Bureau.

CERTAIN PROJECTS — The Township in its sole discretion may exempt projects which otherwise would fall within the purview of this chapter from the requirements of same.

CONTRACTOR — A person or entity awarded a public works project or contract on a publicly funded project contemplated by this chapter.

CRAFT-REQUEST FORM — A form which delineates the job or craft titles and descriptions (for example, but not by way of limitation, plumbers, glazers, carpenters, etc.) which are needed for a particular project, which form may be the one customarily used by the relevant trade or craft unions at that time and place.

DEVELOPER — The recipient of financial assistance for a redevelopment area financing project or the contractor for a public works project.

LABOR ORGANIZATION — An organization which represents, for purposes of collective bargaining, employees involved in the performance of construction contracts and eligible to be paid prevailing wages under the "New Jersey Prevailing Wage Act," P.L. 1963, c. 150 (N.J.S.A. 34:11-56.25 et seq.) and has the present ability to refer, provide or represent sufficient numbers of qualified employees to perform the contracted work and which has an apprenticeship program registered by the Bureau of Apprenticeship and Training of the United States Department of Labor.

NOT-FOR-PROFIT — Any entity that is organized as a nonprofit or not-for-profit entity, corporate or otherwise as a governmental entity.

PROJECT LABOR AGREEMENT — A contract between a contractor/labor organization, and a developer and/or the Township of Montclair that contains, at a minimum, the requirements set forth in this chapter.

PRIVATE ENTITY — Any organization which conducts a profit-making business and is not otherwise organized as a nonprofit organization or governmental entity.

PUBLIC WORKS PROJECT — Building, altering, repairing, improving or demolishing any public structure or facility constructed, acquired or otherwise owned by the Township of Montclair to house local government functions or provide water, waste, disposal, power, transportation and other public infrastructure.

PUBLICLY FUNDED PROJECTS — Includes public works projects that the Township of Montclair directly undertakes with total costs that exceed \$5,000,000 and redevelopment area financing projects with total costs that exceed \$5,000,000.

REDEVELOPMENT AREA FINANCING ("RAF") PROJECT — A project that has a total construction cost that is equal to or exceeds \$5,000,000, exclusive of any land acquisition costs, which and receives (1) a tax exemption pursuant to N.J.S.A. 40A:20-1 et seq. or N.J.S.A. 40A:21-1 et seq. and (2) receives some form of redevelopment area financing such as an affordable housing trust fund grant, a community block development grant, or a redevelopment area bond.

SUBCONTRACTOR — A person or entity that is engaged or performs work or provides materials for a contractor or developer as defined herein, which person or entity may or may not be in privity of contract with the Township of Montclair.

TOTAL PROJECTS COSTS — Shall be inclusive of environmental work, demolitions, pre-construction and construction costs.

§ 51A-3. Coverage.

The terms of this chapter, set forth in § 51A-4 below are applicable to covered projects. "Covered projects" includes public works and publicly funded projects.

§ 51A-4. Conflicts.

To the extent of any of the provisions of this chapter are deemed to conflict with N.J.S.A. 52:38-1 et seq. (P.L. 2202, c. 44) or any other applicable New Jersey statute, the statute shall control. To the extent the provisions of this chapter conflict with the Township's ordinance implementing an Affirmative Action Program (Ordinance No. 7 of 1982)⁴², this chapter shall prevail. To the extent this chapter conflicts with any additional local ordinances, this chapter shall control.

§ 51A-5. Requirements for covered contracts.

- A. Projects labor agreement required. Public works projects and publicly funded projects shall require the execution of a project labor agreement that complies with the requirements of this chapter, unless the Township Manager or his designee determines that it is in the best interests of the Township to waive this requirement. The agreement shall either be directly entered into with a labor organization or the award of the contract shall be made on the conditions that the construction manager for the contract shall negotiate a project labor agreement in good faith with one or more labor organizations.
- B. Project labor agreement requirements. Each project labor agreement executed pursuant to this chapter shall be in conformity with N.J.S.A. 52:38-1 et seq. (P.L. 2202, c. 44).
 - (1) Advance the interests of the Township of Montclair, including the interests in cost, efficiency,

42. Editor's Note: See Ch. 8, Affirmative Action.

- quality, timeliness, skilled labor force, and safety;
- (2) Contain guarantees against strikes, lock-outs, or other similar actions;
 - (3) Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work;
 - (4) Be made binding on all contractors and subcontractors on the project in all relevant documents, including bid specifications;
 - (5) Require that each contractor and subcontractor working on the project utilize have an apprenticeship program as defined herein;
 - (6) Fully conform to all statutes, regulations and Township of Montclair ordinances regarding the implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which shall be expressly provided for in the project labor agreement;
 - (7) Include a publicly available plan which is in full conformance with the requirements of all applicable statutes, regulations, executive orders and Township ordinances and is mutually agreed upon by the participating labor organizations and the public entity or the developer which will own the facilities which are built, altered or repaired under the project, provided that any shares mutually agreed upon pursuant to this subsection shall equal or exceed the requirements of other statutes, regulations, executive orders or local ordinances;
 - (8) State that contractors and subcontractors need not be a party to a collective bargaining agreement with the applicable labor organization other than for the project covered by the project labor agreement;
 - (9) Require the Township to monitor, or arrange to have a state agency monitor, the amount and share of work done on the project by minority group members and women and the progression of minority group members and women into apprentice and journey worker positions and require the Township to make public, or have the state agency make public, all records of monitoring conducted pursuant to N.J.S.A. 52:38-1 et seq. (P.L. 2002, c. 44), this chapter and the project labor agreement;
 - (10) State that any and all residents who are already in any signatory union or an apprenticeship program shall be referred to contractors or subcontractors who request them, even if those Montclair residents were not in line for referral under normal hiring hall procedures;
 - (11) Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a number of women and minority members sufficient to enable compliance with the plan agreed upon pursuant to this chapter and provide that the use of those resources be administered jointly by the participating labor organization and the public entity;
 - (12) State that the terms of the project labor agreement shall prevail over conflicting terms of any collective bargaining agreements;
 - (13) Require that the labor organization utilize members who are Montclair residents as their first choice for staffing without regard of any other preferential status; and
 - (14) Require that 10% of the labor hours required shall be performed by the Montclair residents who are participating in the apprenticeship program and that 100% of the apprentices shall be Essex County residents.

- C. Advertisement. At such time as its sponsored apprentice program is seeking applications, the labor organization will advertise in two newspapers regularly published and distributed in the Township and outreach via other media, such as cable television, the Internet and/or radio. The advertisement shall solicit apprenticeship applications for the labor organization's apprenticeship program, describe the basic requirements for admission, describe the job training and set forth the range of salaries.
- D. Pre-construction meeting. Not less than 30 days prior to the commencement of construction, the developer shall meet with the appropriate Township officials, as the context makes relevant, or his or her designee to present workforce needs, which will include the job description of the positions to be filled and duration of the project. In addition, the developer will provide the construction schedule to the respective director or his or her designee. The labor organization will present the developer and the respective director or his or her designee with the names, addresses and trades of eligible apprentices who are available to work on the project.
- E. Job fairs. The developer and the labor organization will jointly participate in a job fair to be held in the Township in order to explain the apprenticeship program and solicit applications from attendees.

§ 51A-6. apprenticeship utilization goals.

On all covered projects, the minority and women employment goals for each contractor and subcontractor for each trade shall be established by the New Jersey Department of Labor in manner that is consistent with N.J.A.C. 17:27-7.2; however, a contractor shall not be subject to enforcement actions for violation of this provision if that contractor can demonstrate that it made good faith efforts to comply with this section. For the purposes of this section, "good faith efforts" for a developer shall at a minimum include compliance with the following:

- A. Entry into a project labor agreement and obtaining letters of assent from each contractor/subcontractor;
- B. Convening pre-bid and pre-construction meetings to educate construction manager and subcontractors about the apprenticeship utilization goals;
- C. Cooperating with Township representative. The contractor shall cooperate with the representative appointed by the Manager to ensure compliance with this section. The representative shall provide services in support of the Contractor's apprentice hiring goals;
- D. Establish a point of contact to provide information about pre-apprenticeship or apprenticeship opportunities;
- E. Develop and maintain an up-to-date list of persons who have been offered opportunities and those who are working on the project;
- F. Facilitate relationships among approved apprenticeship programs and contractors to enable prompt referrals;
- G. Assist contractors with reporting by working with contractors and the representative where appropriate;
- H. Regularly contacting and documenting of contact with the representative and providing certified payroll and other records on a regular basis to the representative;
- I. Use and documenting use of Township-approved craft request forms sent to both unions and Township representative craft request form, as defined herein means a document through which

contractors shall request workers from unions;

- J. Requesting apprentices that are Township residents from union hiring halls;
- K. Documenting reasons for not hiring referred candidates from target populations, if applicable;
- L. Allowing the Township representative prompt and willing access to documentation of all of the above activities and to the work site if requested.

§ 51A-7. Local minority hiring goals.

For each contractor and subcontractor performing work on a covered project, the project labor agreement shall contain female and minority employment goals that are consistent with the guidelines set forth by the Division of Public Contracts Equal Employment Opportunity pursuant to N.J.A.C. 17.27-7.2.

§ 51A-8. Enforcement.

- A. Monitoring and enforcement. Each contractor and subcontractor subject to the provisions of this chapter shall submit to the Township a completed certified declaration of compliance form prior to commencing work on the covered project.
- B. Contractors and subcontractors. All contractors on covered projects shall require that their subcontractors comply with the provisions of this chapter. Language indicating the subcontractor's agreement to comply shall be included in the contract between the contractor and subcontractor, and shall contain a provision making such terms enforceable by the Township. Copies of such agreements shall be submitted to the Township.
- C. Reports. All contractors and subcontractors shall report to the respective Director or his or her designee on a quarterly basis according to the following schedule (by March 31, June 30, September 30, and December 31 of each year) and shall provide the following information, certified and notarized, for each covered contract for which work was performed during the previous quarter.
 - (1) Manning report. The developer's/contractor's report, as the case may be, will accurately reflect the total hours in each construction trade or craft and the number of hours worked by Township residents, including a list of minority resident and women resident workers in each trade or craft, and will list separately the work hours performed by such employees of the contractor and each of its subcontractors during the previous quarter.
 - (2) Certified payroll report. The developers/contractors, as the case may be, that will specify the residence, gender and ethnic/racial origin of each worker, work hours, and the rate of pay and benefits provided.
 - (3) Equal employment opportunity reports. A copy of the labor organization's local union report (EEO-3) and apprenticeship information report (EEO-2) which are required to be filed with the Equal Employment Opportunity Commission by the labor organization.
 - (4) Apprenticeship report. The report of the labor organization that shall list the names, address and contact information of all Montclair residents who were accepted in to the apprenticeship program. The report shall also list the names, address and contact information of all Montclair residents who were rejected for admission, with the reasons for rejection and, for those Montclair residents who failed to finish the program, the reasons why they failed to complete the program.

- (5) Total cost report. In the event construction permits have been issued and more than 12 months has expired from the date of the adoption of the ordinance approving the tax abatement, the developer shall be required to resubmit a current estimate of total construction costs to ensure that the total construction costs do not exceed \$5,000,000 or it will be deemed that this chapter applies.
 - (6) Final cost report. No later than 90 days following project completion, the developer shall submit a certificate of actual total construction costs. All total construction costs shall be certified to the Township by the project architect and engineer and is subject to review by the Township at the time of application for certificate of occupancy and audit by the Township.
 - (7) Other reports. The developer or the labor organization shall furnish to the Township of Montclair such further information, documents or reports as shall be requested.
- D. Records. Contractors and subcontractors performing work on covered contracts shall maintain certified payroll records for all employees and shall preserve them for a period of three years after completion of the covered contract, making such records available within three days of a written request by the Township or its designee and upon inspection without notice.
- E. Site and records access. All developers, contractors and subcontractors performing work on covered contracts shall permit access for representatives of the Township or its designee to all work sites and to all applicable records in order to monitor compliance with the provisions of this chapter. In the event the Township has good cause to believe that any contractor or subcontractor has failed to comply with the provisions of this chapter, the contractor or subcontractor shall be given written notice and afforded an opportunity for a hearing before the appropriate Township official prior to the imposition of the sanctions set forth in this section. The decision of the respective director(s) shall be final.
- F. Township remedies. In the event the Township has good cause to believe that any contractor or subcontractor on either a publicly funded project or a public works project has failed to comply with the provisions of this chapter, said contractor or subcontractor shall be given written notice of their alleged noncompliance and afforded an opportunity to submit a written response to the Township. In the event the Township determines that any contractor or subcontractor on either a publicly funded project or a public works project has failed to comply with the provisions of this chapter, it shall have available all remedies available at law or in equity, which shall include, but not be limited to the following:
- (1) Suspending or terminating the contract, grant, subsidy agreement, or tax abatement agreement in question;
 - (2) Completing the public works project with a different contractor or subcontractor, and require the original contractor or subcontractor to pay all damages and costs in utilizing a substitute contractor or subcontractor and/or make claim on their performance bond;
 - (3) Debarring the developer, contractor or subcontractor from eligibility for future Township contracts and for financial assistance;
 - (4) Assessing liquidated damages in the amount of 5% of the value of the contract or subsidy in question;
 - (5) Late filing of any report or record or the prohibition of any access required for same under Subsections C, D or E hereof, a payment of \$1,000 per day for each day that the report is late

§ 51A-8

PROJECT LABOR AGREEMENTS

for up to 15 days applies. After 15 days, the failure to provide same shall constitute a material breach and the above remedies shall apply;

- (6) Such other remedies available at law or in equity.

§ 51A-9. Implementation.

- A. The Township shall include language in all grant agreements or other documents approved by the Township Council providing financial assistance on covered projects, including financial agreements in connection with long term tax abatements, requiring compliance with this chapter.
- B. Any advertisement for a public works project published 60 days or more following the effective date of this chapter shall contain provisions conditioning the award of any contract on compliance with this chapter.
- C. The Manager or his designees may promulgate regulations or policies implementing this chapter.

Chapter 52**DOMESTIC VIOLENCE INTERVENTION TEAM**

[HISTORY: Adopted by the Council of the Township of Montclair 9-25-2001 by Ord. No. 01-44.

Amendments noted where applicable.]

§ 52-1. Statement of policy.

In 1991, the New Jersey Legislature passed the Prevention of Domestic Violence Act of 1991, N.J.S.A. 2C:25-17, et seq. (the Act), having determined that domestic violence is a serious crime against society with victims from all social and economic backgrounds. Pursuant to the Act, crisis intervention teams of trained residents can be formed to assist police authorities in dealing with domestic violence cases. The Montclair Domestic Violence Intervention Team would assist victims of domestic violence by providing information on available resources and referrals and acting as a liaison with the police and other agencies, as appropriate.

§ 52-2. Establishment of team; qualification for membership; appointment; coordinator.

There is hereby created, in accordance with N.J.S.A. 2C:25-20, the Montclair Domestic Violence Intervention Team. The team shall consist of an unlimited number of volunteers who shall be at least 21 years of age and bona fide residents of Montclair. All team members shall serve without compensation. Interested persons shall complete an application form supplied by the Township, be fingerprinted by the Police Department and subject to a background check. Members of the team shall be appointed by resolution of the Township Council by reference to a qualified list to be maintained in confidence by the office of the Chief of Police. The Township Council may also by resolution appoint certain team members as coordinators. All coordinators and other team members shall be supervised by the Police Department and shall serve at the discretion of the Township Council.

§ 52-3. Training person.

No person may serve as a team member unless he/she shall have first completed a forty-hour training program specializing in Domestic Violence Intervention Team matters. This training further provides confidentiality protection to the member in accordance with N.J.S.A. 2A:84A-22, et seq.

§ 52-4. Functions and duties.

The functions and duties of the team shall include, but not be limited to:

- A. Meeting with victims of domestic violence to provide support, compassion and advice.
- B. Providing information on available resources, appropriate agencies, hot-lines and the like, and serving as a liaison with police and other agencies as appropriate.

§ 52-5. Annual report.

The Police Department shall prepare and submit to the Mayor and Township Council an annual report summarizing the activities of the team and any recommendations it deems appropriate to make.

§ 52-6. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this chapter are, to the extent of

such inconsistency, hereby repealed.

§ 52-7. Severability.

If any provisions of this chapter or application thereof in any circumstances are held invalid, the invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

MONTCLAIR CODE

Chapter 53

RETIREMENT

**[HISTORY: Adopted by Council of the Township of Montclair as indicated in article histories.
Amendments noted where applicable.]**

GENERAL REFERENCES

Administration of government — See Ch. 3.

Salaries and compensation — See Ch. 55.

Officers and employees — See Ch. 44.

ARTICLE I

Defined Contribution Retirement Program
[Adopted 12-8-2009 by Ord. No. O-066-09]**§ 53-1. Participation required for eligible positions.**

Pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- A. Township Manager.
- B. Township Attorney.
- C. Assistant Township Attorney.
- D. Municipal Prosecutor.
- E. Municipal Court Judge.
- F. Township Engineer.
- G. Township Clerk.
- H. Director of Community Services.
- I. Director of Health and Human Services.
- J. Director of Planning and Community Development.
- K. Director of Recreation and Cultural Affairs.
- L. Director of Administrative/Code Enforcement/Environmental Affairs.
- M. Director of Utilities.

§ 53-2. Exempt positions.

- A. Notwithstanding § 53-1 above, any individual who holds a professional license or certificate and is serving in any of the following positions is exempt from membership in the Defined Contribution Retirement Program, pursuant to N.J.S.A. 43:15C-2:

- (1) Certified Health Officer.
- (2) Tax Collector.
- (3) Chief Financial Officer.
- (4) Construction Code Official.
- (5) Qualified Purchasing Agent.
- (6) Tax Assessor.
- (7) Municipal Planner.
- (8) Registered Municipal Clerk.

- (9) Licensed Uniform Subcode Inspector.
 - (10) Principal Public Works Manager.
- B. If an individual is appointed to one of the positions listed in § 53-1 and the individual is not serving in a position as described in Subsection A above, the Pension Certifying Officer of the Township may determine that the individual is not required to join the Defined Contribution Retirement Program if that individual:
- (1) Was an active participant in the Public Employee Retirement System on July 1, 2007, and has been continuously since that time; or
 - (2) Has been appointed pursuant to a valid promotional process; or
 - (3) Is appointed on a temporary, interim or acting basis to a position requiring state certification as set forth in Subsection A herein and is in pursuit of the required certification; or
 - (4) Meets such other exceptions that may be approved by the Local Finance Board or the Division of Pensions and Benefits.

§ 53-3. Implementation; construal.

This article shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.), as amended from time to time, and any regulations or guidance documents issued by the Local Finance Board or the Division of Pensions and Benefits.

MONTCLAIR CODE

Chapter 55

SALARIES AND COMPENSATION

[The currently effective ordinances establishing the salaries and rates of compensation of the officers and employees of the township are on file in the office of the Municipal Clerk.]

GENERAL REFERENCES

Administration of government — See Ch. 3.

Personnel regulations — See Ch. 48.

Salaries of Mayor and Council — See Ch. 44, Art. I.

Chapter 60**URBAN RENEWAL**

[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. 55 of the 1979 Code. Amendments noted where applicable.]

§ 60-1. Findings and determinations.⁴³

- A. It is hereby found and determined that the project is a blighted area and qualifies as an eligible project area under the provisions of Chapter 306 of the Laws of 1949 (N.J.S.A. 40:55C-1 et seq.).⁴⁴
- B. The urban renewal plan for the project, having been duly reviewed and considered, is hereby approved, and the Municipal Clerk is hereby directed to file said copy of the urban renewal plan with the minutes of this meeting.
- C. It is hereby found and determined that the objectives of the urban renewal plan cannot be achieved through rehabilitation of the project area.
- D. It is hereby found and determined that the urban renewal plan for the project area conforms to the general plan of the Township of Montclair.
- E. It is hereby found and determined that the financial aid provided and to be provided pursuant to the contract for federal financial assistance pertaining to the project is necessary to enable the project to be undertaken in accordance with the urban renewal plan for the project area.
- F. The redevelopment of the urban renewal area for predominantly nonresidential uses is necessary for the proper development of the community.
- G. It is hereby found and determined that the urban renewal plan for the urban renewal area will afford maximum opportunity, consistent with the sound needs of the Township of Montclair as a whole, for the urban renewal of the area by private enterprise.
- H. It is hereby found and determined that the urban renewal plan for the urban renewal area gives due consideration to the provision of adequate park and recreational areas and facilities, as may be desirable for neighborhood improvement, with special consideration for the health, safety and welfare of children residing in the general vicinity of the site covered by the plan.
- I. It is hereby found and determined that the program for the proper relocation of individuals and families displaced in carrying out the project in decent, safe and sanitary dwellings in conformity with acceptable standards is feasible and can be reasonably and timely effected to permit the proper prosecution and completion of the project; and that such dwellings or dwelling units available or to be made available to such displaced individuals and families are at least equal in number to the number of displaced individuals and families, are not generally less desirable in regard to public utilities and public and commercial facilities than the dwellings of the displaced individuals and

43. Editor's Note: A lengthy preamble identifies the "project" as the "Lackawanna Plaza Urban Renewal Project, N.J.R. — 158." The area encompassed by the project is described in Exhibit A, which is attached at the end of the chapter. The preamble also identifies the Montclair Redevelopment Agency as the "local public agency," the Township of Montclair as the "locality" and the Board of Commissioners (now Council) of the Township of Montclair as the "Township Commission." The preamble recognizes the need for urban renewal in the project, that application has been made to the Secretary of Housing and Urban Development under the Housing Act of 1949, and that it is necessary for the urban renewal plan to be approved by the governing body of the locality.

44. Editor's Note: N.J.S.A. 40:55C-1 et seq. was repealed by L. 1991, c. 431, and L. 1992, c. 79.

families in the project area, are available at rents or prices within the financial means of the displaced individuals and families and are reasonably accessible to their places of employment.

- J. In order to implement and facilitate the effectuation of the urban renewal plan hereby approved, it is found and determined that certain official action must be taken by this body with reference, among other things, to change in zoning, the vacating and removal of streets, alleys and other public ways, the establishment of new street patterns, the location and relocation of sewer and water mains and other public facilities, and other public action, and, accordingly, this body hereby:
- (1) Pledges its cooperation in helping to carry out the urban renewal plan.
 - (2) Requests the various officials, departments, boards and agencies of the Township of Montclair having administrative responsibilities in the premises likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with the urban renewal plan.
 - (3) Stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the urban renewal plan.
- K. Additional financial assistance under the provisions of Title I of the Housing Act of 1949, as amended, is necessary to enable the land in the project area to be renewed in accordance with the urban renewal plan for the project area, and, accordingly, the filing by the local public agency of an application or applications for such financial assistance under Title I is hereby approved.
- L. The revised urban renewal plan, as approved by HUD on May 20, 1976, and certified favorably by the Montclair Planning Board, is hereby approved by the Township Council. A copy of said revised plan is annexed hereto.

EXHIBIT A DESCRIPTION

BEGINNING at the point of intersection of the southwesterly right-of-way of Bloomfield Avenue and the Glen Ridge boundary and running thence northwesterly along the southwesterly right-of-way line of Bloomfield Avenue to its point of intersection with the extension of the western right-of-way line of Lackawanna Plaza; thence northerly along the western right-of-way line of Lackawanna Plaza to its point of intersection with the extension of the northern right-of-way line of Greenwood Avenue; thence northeasterly along the northern right-of-way line of Greenwood Avenue to its point of intersection with the northeasterly right-of-way line of Glenridge Avenue; thence southeasterly along the northeasterly right-of-way line of Glenridge Avenue to its point of intersection with the Glen Ridge boundary; thence southwesterly along the Glen Ridge boundary to the southwesterly right-of-way line of Bloomfield Avenue and the point of beginning.

General Legislation

Chapter 65**AFFORDABLE HOUSING**

[HISTORY: Adopted by the Council of the Township of Montclair 9-22-2009 by Ord. No. O-053-09; amended in its entirety 3-12-2026 by Ord. No. O-26-04. Subsequent amendments noted where applicable.]

§ 65-1. Purpose; applicability; reports.

- A. This chapter is intended to assure that low-income and moderate-income units are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This chapter shall apply except where inconsistent with applicable law.
- B. The Montclair Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Montclair shall address its fair share for low- and moderate-income housing documented in the Housing Element.
- C. This chapter implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.

§ 65-2. Definitions.

The following terms, when used in this chapter, shall have the meanings given in this section:

ACCESSORY DWELLING UNIT — A residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping, eating, sanitation and cooking, including a stove and refrigerator, and is located within a proposed or existing primary dwelling, within an existing or proposed structure that is an accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling.

ACT — The Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P.L. 1975, c. 17 (N.J.S.A. 52:27D-119 et seq.) and in accordance with the provisions of Section 5 of P.L. 2005, c. 350, N.J.S.A. 52:27D-123b(5).

ADMINISTRATIVE AGENT — The individual or entity responsible for administering the affordability controls with respect to restricted units as designated pursuant to N.J.S.A. 52:27D-321, N.J.A.C. 5:80-26.15 and 5:99-7.

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY ASSISTANCE — The use of funds to render housing units more affordable to low- and moderate-income households and includes, but is not limited to, down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code, pursuant to N.J.A.C. 5:99-2.5.

AFFORDABILITY AVERAGE — An average of the percentage of regional median income at which

restricted units in an affordable development are affordable to low- and moderate-income households.

AFFORDABLE — In the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

AFFORDABLE DEVELOPMENT — A housing development, all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DELIVERY MECHANISMS — Any of the methods of creating or preserving actual housing units available to low- and moderate-income households or creating a realistic opportunity for the construction of such units, as permitted by the Act.

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

AFFORDABLE HOUSING DISPUTE RESOLUTION PROGRAM — Also referred to as "The Program"; refers to the dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

AFFORDABLE HOUSING MONITORING SYSTEM (AHMS) — The NJ Department of Community Affairs' cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act, including units created using municipal affordable housing trust funds.

AGE-RESTRICTED UNIT — A housing unit designed to meet the needs of, and intended exclusively for, the residents of an age-restricted segment of the population where the adult member of the family who is the head of the household for the purposes of determining income eligibility and rent is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 through 3619, except that due to death, a surviving spouse of less than 55 years of age is permitted to continue to reside in the unit.

AGENCY — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

ASSISTED LIVING RESIDENCE — A facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

BARRIER-FREE ESCROW — The holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

CERTIFIED HOUSEHOLD — A household that has been certified by an administrative agent as a low-income household or moderate-income household.

CHOICE — The no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

CONSTRUCTION — New construction and additions, but does not include alterations, reconstruction, renovations, conversion, relocation, or repairs, as those terms are defined in the State Uniform Construction Code promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217 (N.J.S.A. 52:27D-119 et seq.).

CONTINUUM OF CARE or COC — One of the 16 local planning bodies in New Jersey that coordinate service providers and others interested parties to prevent and end homelessness, as authorized by subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11431 through 11435.

DCA — The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — A housing unit that: 1) is over 50 years old and overcrowded; 2) lacks complete plumbing; or 3) lacks complete kitchen facilities.

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, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use 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 N.J.S.A. 40:55D-1 et seq.

EMERGENT OPPORTUNITY — A circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

EXTENSION OF EXPIRING CONTROLS — Extending the deed restriction period on units where the controls will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

FAIR SHARE PLAN — The plan or proposal, adopted with accompanying ordinances and resolutions, pursuant to Subsection f. of Section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) by which Montclair Township proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the Township proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the Montclair Housing Element, and addresses the development regulations necessary to implement the Housing Element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost generating features from the municipal land use ordinances and regulations.

HOUSEHOLD INCOME — A household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to Section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

HOUSING ELEMENT — The portion of a Montclair's Master Plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the Township's fair share of its region's present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to Subsection f. at N.J.S.A. 52:27D-304.1.

HOUSING PROJECT — A project, or distinct portion of a project, which is designed and intended to

provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of low- and moderate-income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

LIHTC — The Low-Income Housing Tax Credit (LIHTC) program established by the federal government through the Tax Reform Act of 1986 to create affordable housing.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the regional median household income.

LOW-INCOME HOUSING — Housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50% or less of the median gross household income for households of the same size within the housing region in which the housing is located.

MAJOR SYSTEM — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

MARKET-RATE UNITS — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — The median income by household size for the applicable county, as determined by applicable state and/or federal agencies.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income.

MODERATE-INCOME HOUSING — Housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located.

MONI — The no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

MUNICIPAL HOUSING LIAISON (MHL) — An appointed municipal employee who is responsible for oversight and/or administration of the affordable housing units created within the municipality and oversight of the authorization of individuals being provided access to the AHMS.

MUNICIPALITY — The Township of Montclair.

NEW JERSEY HOUSING RESOURCE CENTER — The online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

NONEXEMPT SALE — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between

family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary; and the transfer of ownership by court order.

NONPROFIT — An organization granted nonprofit status in accordance with Section 501(c)(3) of the Internal Revenue Code.

RANDOM SELECTION PROCESS — A lottery process by which currently income-eligible applicant households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another except in the case of a veteran's preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3.

RECONSTRUCTION — Any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode of the Uniform Construction Code, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

REHABILITATION — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT — The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT — A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

TOWNSHIP — The Township of Montclair.

TRANSITIONAL HOUSING — Temporary housing that: includes, but is not limited to, single-room occupancy or shared living and supportive housing arrangements; provides access to on-site or off-site supportive services for very-low-income households who have recently been homeless or lack stable housing; is licensed by the Department of Community Affairs; and allows households to remain for a minimum of six months.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

UHORP — The Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

VERY-LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the regional median household income.

VERY-LOW-INCOME UNIT — A restricted unit that is affordable to a very-low-income household.

VETERAN PREFERENCE — The agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50% of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

WEATHERIZATION — Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§ 65-3. Programs.

The Township of Montclair has determined that it will use the following mechanisms to satisfy its affordable housing obligations and to provide realistic housing opportunities for Township and Board of Education employees and for Township residents seeking to reside or continue to reside in Montclair:

A. A rehabilitation program.

- (1) Montclair's rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (2) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- (3) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien, and for renter-occupied units, the control period will be enforced with a deed restriction.
- (4) The Township of Montclair shall dedicate a minimum of \$10,000 and a maximum of \$35,000 for each single-family owner-occupied unit and \$25,000 for each multifamily unit to be rehabilitated through this program, reflecting the minimum hard and soft cost of rehabilitation for each unit.
- (5) The Township of Montclair shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of Montclair.
- (6) The Township of Montclair shall designate one or more administrative agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The administrative agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).
- (7) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is rerented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

B. Essex County Rehabilitation Program (Housing Improvement Program known as "HIP"). The

County's HIP has been operational for many years. It is funded through the federal Community Development Block Grant Program. It provides deferred loans to income-qualifying homeowners who occupy a one- to three-family home. A lien will be recorded against the property. Homeowners who occupy a one- to three-family home must meet income guidelines. Examples of eligible improvements include heating systems, roofing, plumbing, electrical and code violation abatement. Information on the HIP may be obtained by contacting the County's Division of Housing and Community Development, 20 Crestmont Road, Verona, NJ 07044; 973-655-0200.

C. A market-to-affordable program.

- (1) A market-to-affordable program is established to permit the purchase or subsidization of units through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of Subsection C(2)(c) below, the market-to-affordable programs may produce both low- and moderate-income units.
- (2) The following provisions shall apply to market-to-affordable programs:
 - (a) At the time they are offered for sale or rental, eligible units may be new, preowned or vacant.
 - (b) The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - (c) The municipality will provide a minimum of \$50,000 per unit to subsidize each moderate-income unit and/or \$75,000 per unit to subsidize each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
- (3) The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
 - (a) Bedroom distribution [N.J.A.C. 5:80-26.3(b) and (c)];
 - (b) Low-/moderate-income split [N.J.A.C. 5:80-26.3(a)]; and
 - (c) Affordability average [N.J.A.C. 5:80-26.3(d) and (e)]; however:
 - [1] The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60% of median income, and the maximum rent for a low-income unit shall be affordable to households earning no more than 44% of median income; and
 - [2] The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70% of median income, and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40% of median income.

D. Down payment assistance program. The following procedure is to be employed in connection with requests for down payment assistance to qualified affordable housing buyers who lack sufficient funds for the necessary down payment to purchase an affordable housing unit. The down payment assistance shall be in the form of a grant.

- (1) Applications for down payment assistance shall be made by a qualified affordable housing buyer to the Department of Planning and Community Development on the application form provided by said office. Said application shall be approved by resolution by the Township Council upon referral from the Department of Planning and Community Development, provided

that the application satisfies the requirements set forth herein, and subject to the availability of funds in the Affordable Housing Trust Fund.

- (2) The maximum amount of the down payment assistance grant to an applicant shall be \$2,500.
- (3) The down payment assistance program will be funded through the Affordable Housing Trust Fund. All grants will be released at closing.
- (4) The terms of the grant shall require that the full amount of the grant be repaid to the Township in the event that the property is sold within 10 years of the closing. In the event that the sale price is less than the grantee's purchase price, the amount of the repayment shall be reduced by the difference between the purchase and sale prices.

E. Voluntary extension of affordability controls program.

- (1) Montclair's voluntary extension of affordability controls is designed to maintain the Township's supply of housing affordable to low- and moderate-income households by extending the term of the affordability controls on existing affordable units.
- (2) Eligible participants must be owners of a dwelling unit in Montclair Township that has a low- and moderate-income deed restriction that has expired or is scheduled to expire within two years of the application for an extension of the affordability control.
- (3) Applications by eligible participants shall be made to the Department of Planning and Community Development on the application form provided by said office. Said application shall be approved by resolution by the Township Council upon referral from the Department of Planning and Community Development, provided that the application satisfies the requirements set forth herein, and subject to the availability of funds in the Affordable Housing Trust Fund.
- (4) Occupants of the deed-restricted unit must meet the current income requirements for a low- and moderate-income household.
- (5) The Township of Montclair will provide funds as indicated in § 65-11H for owner-occupied units and § 65-15H for renter occupied units.
- (6) The term for the extended deed restrictions must meet the requirements of § 65-11A for owner-occupied units and § 65-15A for renter-occupied units.

F. Resident retention and Township/Board of Education employee housing initiative program.

- (1) The Township of Montclair will encourage and support the creation of housing opportunities affordable to Township residents desiring to continue living in Montclair and for Township and Board of Education employees seeking to live in Montclair.
- (2) The Township may develop project-based programs and criteria to accomplish these ends.

G. Rental Assistance Program.

- (1) The Montclair Township Rental Assistance Program is designed to help very-low- and low-income households to find a home in Montclair. This program will provide a grant to renters of deed-restricted affordable properties within Montclair Township to be used to pay for up to the first three months' rent or \$2,500, whichever is greater. The goal of the program is to provide financial assistance to very-low- and low-income tenants of affordable housing to alleviate financial hardship associated with moving to a new rental unit. Funds are made available

through the Affordable Housing Trust Fund of Montclair Township.

- (2) Applicants for this grant program must be income-qualified as a very-low-income or low-income household by the Administrative Agent for Montclair Township and must have a lease to rent a deed-restricted apartment in Montclair.
- (3) Properties must be a rental property within Montclair Township with deed restrictions limiting ownership to eligible low- and moderate-income families. The rent of the apartment will be limited by the deed restriction to be affordable to a very-low-income household.
- (4) Upon certification of the qualifications of the unit and prospective tenant household by the Administrative Agent, the Municipal Housing Liaison will request authorization to disburse the funds.

§ 65-4. Municipal Housing Liaison.

- A. Municipal Housing Liaison. The position of Municipal Housing Liaison (MHL) for Montclair is established by this chapter. The Township Council shall make the actual appointment of the MHL by resolution. The MHL must be either a full-time or part-time employee of Montclair.
 - (1) The MHL shall be responsible for oversight and coordination of all the activities of the Township as it relates to the creation, preservation, and administration of affordable housing programs, affordable units, and reporting. Pursuant to N.J.A.C. 5:99-6.2, such oversight activities include ensuring that administrative agents execute the practices, procedures and standards set forth in this chapter.
- B. As part of a municipality's ongoing compliance with the Act, the municipality, through the Municipal Housing Liaison, shall:
 - (1) Provide to the administrative agent the name, title, email address, and telephone number of the Municipal Housing Liaison who will be responsible for oversight of the administrative agent on all matters related to this chapter;
 - (2) If necessary, retain or otherwise designate legal counsel for the purposes of representing any municipal entity acting as administrative agent and of enforcing the controls set forth in this chapter;
 - (3) Ensure that applicable local ordinances are not in conflict with, and enable efficient implementation of, this chapter;
 - (4) Ensure that all restricted units are identified as affordable within the tax assessor's office and any municipal utility authority (MUA). The Township and MUA shall promptly notify the administrative agent of a change in billing address, payment delinquency of two consecutive billing cycles, transfer of title, or institution of a foreclosure action, foreclosure judgment, or deed in lieu of foreclosure as to all affordable units;
 - (5) Work with the administrative agent to ensure that affordable housing opportunities are posted to the New Jersey Housing Resource Center pursuant to N.J.S.A. 52:27D-321.3 through 321.6, including, if necessary, levying fines through the process outlined at N.J.A.C. 5:99-5.6(c)4;
 - (6) Maintain a list of all affordable units within its jurisdiction, including the date of deed restriction expiration, income limits, and the administrative agent for each unit;

- (7) Report the information in Subsection B(6) above to the Division each year; and
- (8) Publish on the Township's website the affordable housing operating manual(s) required pursuant to N.J.A.C. 5:99-7.2, the affirmative marketing plan required pursuant to N.J.A.C. 5:80-26.16, and contact information for the administrative agent for each project within the Township's jurisdiction with an affordable housing component for which affirmative marketing is required.

§ 65-4.1. Administrative agent.

- A. The Township of Montclair shall designate or approve, for each project or program within its Fair Share Plan, an administrative agent to administer the affordable housing program and/or affordable units in accordance with the requirements of the Act, the Dispute Resolution Program, and N.J.A.C. 5:99-7.
- B. The administrative agent shall administer and enforce the affordability controls set forth in this chapter, which actions are reviewable by the Municipal Housing Liaison pursuant to N.J.S.A. 52:27D-321. The primary responsibility of the administrative agent is to ensure that the restricted units under administration are sold or rented, as applicable, only to very-low-, low-, and moderate-income households. The administrative agent shall also fulfill the requirements and responsibilities identified at N.J.A.C. 5:99-7.
 - (1) Pursuant to N.J.A.C. 5:99-7.2, the administrative agent shall have the authority to discharge and release any or all instruments, as set forth at N.J.A.C. 5:80-26 appendices, filed of record to establish affordability controls.
 - (2) In order to ensure the orderly transfer of control responsibility from a municipality to an administrative agent, from one administrative agent to another administrative agent, or other transfer, the procedures for changing administrative agents as outlined at N.J.A.C. 5:99-7.4 must be followed.
- C. The administrative agent's enforcement responsibility for implementing such practices and procedures may not be delegated or otherwise transferred to any other party, except to a successor administrative agent. Anything in this chapter to the contrary notwithstanding, the Agency and DCA each may, in its discretion, contract with for-profit and nonprofit organizations to carry out delegated administrative agent functions; provided, however, that in any such case the Agency or DCA shall maintain primary responsibility for the delegated functions.
- D. In addition to those listed at N.J.A.C. 5:99-7.2, administrative agent practices and procedures include, but are not limited to, the following:
 - (1) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit be offered, or in any other way committed, to any person other than a household duly certified to the unit by the administrative agent;
 - (2) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificate set forth at N.J.A.C. 5:80-26 Appendix D-3, J, or K;
 - (3) Working with the MHL to ensure that affordable housing opportunities are posted to the New Jersey Housing Resource Center pursuant to N.J.S.A. 52:27D-321.3 through 321.6, including,

if necessary, levying fines for noncompliance and requiring new lotteries;

- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the following requirements:
 - (a) If the unit is owner-occupied, that the unit may be resold only to a household that has been approved in advance and in writing by the administrative agent;
 - (b) That no sale of the unit will be lawful, unless approved in advance and in writing by the administrative agent, and that no sale may be for a consideration greater than the maximum permitted resale price, as determined by the administrative agent;
 - (c) That no refinancing, equity loan, secured letter of credit, or any other mortgage obligation or debt secured by the unit may be incurred except as approved in advance, in writing, by the administrative agent, and that at no time will the administrative agent approve any debt that would make the total of all such debt exceed 95% of the then-applicable maximum permitted resale price;
 - (d) That the owner of the unit shall at all times maintain the unit as their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year;
 - (e) That, except as set forth in Subsection D(4)(h) below, at no time may the owner of the unit lease or rent the unit to any person or persons, except on a short-term hardship basis, as approved in advance, in writing, by the administrative agent;
 - (f) That the maximum permitted rent chargeable to affordable tenants must be mailed to tenants in accordance with Subsection E(1) below;
 - (g) Copies of all leases or lease renewal agreements for affordable rental units must be submitted annually to the administrative agent;
 - (h) If the affordable unit is a two-family home, that the owner may lease the rental unit only to certified households approved, in writing, by the administrative agent, may charge rent no greater than the maximum permitted rent as determined by the administrative agent, and shall submit for written approval of the administrative agent copies of all proposed leases prior to having them signed by any prospective tenant; and
 - (i) That no improvements may be made to any unit that would affect its bedroom configuration, except as provided at N.J.A.C. 5:80-26.10(a) and in any event, that no improvement made to the unit will be taken into consideration to increase the maximum permitted resale price, except for improvements approved in advance, in writing, by the administrative agent.
- (5) Securing from the Township lists of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back into or sell their unit;
- (6) Establishing a program for diverting unlawful rent payments to the Township's affordable housing trust fund or other appropriate municipal fund approved by the Department. For purposes of this subsection, unlawful rent payments means:
 - (a) All rent monies paid by a person who has not been duly certified in accordance with the

provisions at N.J.A.C. 5:80-26.17;

- (b) All rent paid by a person or persons renting an ownership unit from an owner who has moved out of their unit illegally;
 - (c) Rent paid by a lawful tenant in excess of amounts permitted by law; and
 - (d) Rent paid to an affordable unit owner who is claiming a hardship, when the owner has not received prior authorization from the administrative agent as provided for at N.J.A.C. 5:80-26.8(a); and
- (7) Establishing a rent-to-equity program, to be implemented in situations where an affordable unit owner has unlawfully rented their unit, and where the tenant has entered into a tenancy without knowledge of its unlawful nature. Under such a rent-to-equity program, the tenant, including the immediate family of the tenant, shall be given an opportunity to purchase the unit from the affordable unit owner, and the affordable unit owner shall be compelled to sell the unit to the tenant, with the total of all rent paid to the owner being credited to the tenant as down payment money paid to the affordable unit owner. Anything in this chapter to the contrary notwithstanding, any person offered a unit under such a rent-to-equity program must first be certified as eligible pursuant to N.J.A.C. 5:80-26.17.

§ 65-4.2. Other administrative functions.

A. The owner of a development containing affordable rental units subject to this chapter or the assigned management company thereof shall:

- (1) Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued; and
- (2) Promptly provide to the administrative agent, upon the latter of either final municipal land use approval or issuance of a grant contract by a governmental authority, as well as upon receipt of the certificate of occupancy:
 - (a) The total number of units in the project and the number of affordable units, broken down by bedroom count, identifying which are very-low-income, low-income, and moderate-income units, and including street addresses of affordable units;
 - (b) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof;
 - (c) A project map identifying the location of affordable units and market-rate units;
 - (d) A list of project principals or partners, together with a list of all other affordable projects in which they have been involved over the previous five years;
 - (e) A projected construction schedule;
 - (f) Proposed pricing for all units, including any purchaser options and add-on items;
 - (g) A list of all public funding sources and copies of grant or loan agreements for those sources;

- (h) Condominium or homeowner association fees and any other applicable fees;
 - (i) Estimated real property taxes for for-sale units;
 - (j) Sewer, water, trash disposal, and any other utility assessments;
 - (k) Flood insurance requirement, if applicable;
 - (l) A description of all HVAC systems;
 - (m) The location of any common areas and elevators;
 - (n) A proposed form of lease for any rental units;
 - (o) The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes; and
 - (p) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.
- B. It is the responsibility of the Municipal Housing Liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or Municipal Housing Liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this chapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the Municipal Housing Liaison or the administrative agent to refer a certified tenant.
- C. Banks and other lending institutions are prohibited from issuing any loan secured by owner-occupied real property subject to the affordability controls set forth in this chapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
- D. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this chapter, all of the rights and remedies available at law and in equity for the enforcement of this chapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
- E. Appeals from all decisions of an administrative agent appointed pursuant to this chapter must be filed, in writing, with the Municipal Housing Liaison for the jurisdiction. A decision by the Municipal Housing Liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

§ 65-5. Regional income limits.

- A. Administrative agents shall use the regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
- B. Regional income limits are based on regional median income, which is established by a regional weighted average of the "median family incomes" published by HUD. The procedure for computing the regional median income is:
 - (1) For each county in the housing region, multiply HUD's determination of the county's "median family income" for a family of four by the Decennial Census's estimated number of households within the county;
 - (2) Add the resulting products for each county within the housing region, then divide the sum by the summed total estimated number of households in the housing region. Round the resulting quotient up to the nearest multiple of 100 to obtain the regional median income for a household of four; and
 - (3) To compute the regional median income for other household sizes, multiply the regional weighted average by the percentage adjustment factors used by HUD in the Section 8 program, then round each percentage-adjusted regional weighted average up to the nearest multiple of 100.
- C. To calculate the regional income limits, multiply the relevant percentage by the regional median income for the relevant household size. For example, the regional income limit for a four-person low-income household is equal to 50% of the regional median income for a four-person household, while the regional income limit for a one-person very-low-income household is equal to 30% of the regional median income for a one-person household.
- D. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

§ 65-6. Affordability average; bedroom distribution.

- A. The provisions of this section do not apply to units created in Rounds 1, 2 and 3 which are subject to the applicable grant of substantive certification, judgment of compliance, grant agreement, or other contract, or, if the units created in Rounds 1, 2 and 3 are not subject to any grant of substantive certification, judgment of compliance, grant agreement, or other contract, are subject to the provisions at N.J.A.C. 5:80-26.3 that were in effect prior to December 20, 2024 (the effective date of the specially adopted amendments, as promulgated pursuant to P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1)).
- B. For the purposes of determining affordability averages and bedroom distributions:
 - (1) Affordability averages and bedroom distributions for small developments, defined as any affordable development with four or fewer restricted units, may be calculated based on the aggregate of all the restricted units within small developments within the municipality. This aggregation affects only the calculations of affordability and bedroom counts for small developments and is not to be construed to require that the restricted units be developed or administered as one affordable development;
 - (2) Bedrooms may be counted as individual units if they are within restricted units that are group homes, other arrangements in which households live in distinct bedrooms and may share kitchen

and plumbing facilities, central heat, and common areas, or provider-managed housing.

- C. Developments approved as part of a compliance certification or that otherwise contain restricted units subject to the UHAC regulations shall satisfy the following rental affordability requirements, which municipalities shall also establish by ordinance that:
- (1) The average rent for all restricted units within each affordable development is affordable to households earning no more than 52% of median income;
 - (2) The maximum rent for all restricted units within each affordable development is affordable to households earning no more than 60% of regional median income; however, the Township may permit a maximum rent affordable to households earning no more than 70% of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13% of the restricted units. In such developments, the number of units with rent affordable to households earning 70% of regional median income may not exceed the number of very-low-income units in excess of 13% of the restricted units; and
 - (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom count for very-low-income, low-income, and moderate-income units, provided that at least 13% of all restricted units within each municipality are affordable to and reserved for very-low-income households, with at least half of such units made available for very-low-income families with children. Nothing in this subsection precludes the Township from requiring affordable developments to have at least 13% of restricted units be affordable to and reserved for very-low-income households.
- D. The maximum sale price of restricted ownership units within each affordable development must be affordable to households earning no more than 70% of regional median income. Each affordable development must achieve an affordability average of no more than 55% for restricted ownership units. In achieving this affordability average, units must be available for at least three different moderate-income prices within each bedroom count with moderate-income ownership units, and for at least two different low-income prices within each bedroom count with low-income ownership units.
- E. Unless otherwise approved pursuant to Subsection L below, in each affordable development, restricted units that are not age-restricted or supportive housing must be structured in conjunction with realistic market demands such that:
- (1) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - (2) Two-bedroom and/or three-bedroom units compose at least 50% of all restricted units;
 - (3) No more than 20% of all restricted units, rounded up or down to the nearest whole number in either direction, are efficiency or one-bedroom units;
 - (4) At least 30% of all restricted units, rounded up or down to the nearest whole number in either direction, are two-bedroom units;
 - (5) At least 20% of all restricted units, rounded up or down to the nearest whole number in either direction, are three-bedroom units; and
 - (6) The remainder of the restricted units, if any, are allocated at the discretion of the developer in accordance with the municipality's housing element and fair share plan.

- F. Unless otherwise approved pursuant to Subsection L below, in each affordable development, restricted units that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangement, must be structured such that, at a minimum, the number of bedrooms within the restricted units equals the number of restricted units. For example, the standard may be met by creating a two-bedroom unit for each efficiency unit. In affordable developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must compose at least 5% of those restricted units.
- G. Unless otherwise approved pursuant to Subsection L below, in each affordable development, the following income distribution requirements must be independently satisfied by the restricted units that are age-restricted, the restricted units that are supportive housing, and the restricted units that are neither age-restricted nor supportive housing, as well as by all of the restricted units in the development, considered in the aggregate:
- (1) At least 50% of all restricted units are low-income or very-low-income units;
 - (2) At least 50% of all restricted efficiency or one-bedroom units, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units;
 - (3) At least 50% of all restricted two-bedroom units, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units;
 - (4) At least 50% of all restricted three-bedroom units are low-income units or very-low-income units;
 - (5) At least 50% of all restricted units with four or more bedrooms, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units; and
 - (6) Any very-low-income units are distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count. For example, if half of the restricted units are two-bedroom units, then half of the very-low-income units should be two-bedroom units.
- H. For the purposes of determining bonus credits pursuant to N.J.S.A. 52:27D-311.k(5), the minimum number of three-bedroom units required pursuant to this chapter is determined by taking 20% of the total number of family housing units in the municipal fair share plan and housing element, not by summing up the three-bedroom-unit requirements calculated for each affordable development.
- I. In determining the initial rents and initial sale prices for compliance with the affordability average requirements for restricted units other than age-restricted units and assisted living facilities, the following standards apply:
- (1) An efficiency unit is affordable to a one-person household;
 - (2) A one-bedroom unit is affordable to a one-and-one-half-person household;
 - (3) A two-bedroom unit is affordable to a three-person household;
 - (4) A three-bedroom unit is affordable to a four-and-one-half-person household; and
 - (5) A four-bedroom unit is affordable to a six-person household.
- J. For age-restricted units and assisted living facilities, the following standards apply:

- (1) An efficiency unit is affordable to a one-person household;
 - (2) A one-bedroom unit is affordable to a one-and-one-half-person household;
 - (3) A two-bedroom unit is affordable to a two-person household or to two one-person households; and
 - (4) A three-bedroom unit is affordable to a two-and-one-half-person household.
- K. The provisions of this section, except for Subsection J above, do not apply to affordable developments financed pursuant to UHORP, MONI, or CHOICE or to assisted living residences, each of which must comply with applicable Agency rules.
- L. The requirements at Subsections E, F, and G above must be satisfied by all restricted units in the Township, considered in the aggregate. The individual requirements at Subsections E, F and G above may be waived or altered for a specific affordable development with written approval from the Division if such waiver or alteration would not result in a material deviation from the municipal housing element and fair share plan. Waivers approved by the Division must be published on a public webpage within 30 days of approval. Any waiver or alteration that would result in a material deviation from the municipal housing element and fair share plan must receive written approval from a county-level housing judge.

§ 65-7. Occupancy standards.

- A. Prior round units whose siting and creation are consistent with a prior round development or zoning designation that received COAH or court approval on or before June 30, 2025, or the date that the Township adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner, are not subject to the requirements detailed in this subsection. Rather, those prior round units remain subject to the applicable grant of substantive certification, judgment of compliance, grant agreement, or other contract, or, if the prior round units are not subject to any grant of substantive certification, judgment of compliance, grant agreement, or other contract, remain subject to N.J.A.C. 5:80-26.3(f) as it was in effect prior to December 20, 2024. Developments approved as part of a compliance certification or that otherwise contain restricted units subject to the UHAC regulations shall satisfy the following occupancy standards:
- (1) For any 100% affordable development comprising one or more restricted units:
 - (a) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4;
 - (b) Each bedroom in each restricted unit must have at least one window; and
 - (c) Restricted units must include adequate air conditioning and heating.
 - (2) For developments comprising market-rate rental units and restricted rental units:
 - (a) Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes;

- (b) Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations;
 - (c) Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services;
 - (d) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits;
 - (e) Restricted units must include adequate air conditioning and heating and, if market-rate units provide cooling and heating, restricted units must use the same type of cooling and heating sources as market-rate units of the same unit type;
 - (f) Each bedroom in each restricted unit must have at least one window;
 - (g) Restricted units must be of the same unit type as market-rate units within the same building; and
 - (h) Restricted units and bedrooms must be no less than 90% of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- (3) For developments containing for-sale units, including those with a mix of rental and for-sale units, Subsection A(2) above shall govern the rental units, while for-sale units shall adhere to the following:
- (a) Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes;
 - (b) Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations;
 - (c) Restricted units may be of different housing product types than market-rate units, provided that developments containing market-rate duplexes, townhomes, and/or single-family homes offer restricted housing options that also include duplexes, townhomes, and/or single-family homes;
 - (d) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4;
 - (e) Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s);

- (f) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits;
 - (g) Each bedroom in each restricted unit must have at least one window; and
 - (h) Restricted units must include adequate air conditioning and heating.
- (4) If the affordable development is constructed in phases, then:
- (a) No more than 25% of the market-rate units plus one, may be completed prior to the completion of 10% of the restricted units;
 - (b) No more than 50% of the market-rate units may be completed prior to the completion of 50% of the restricted units;
 - (c) No more than 75% of the market-rate units may be completed prior to the completion of 75% of the restricted units; and
 - (d) No more than 90% of the market-rate units may be completed prior to the completion of all of the restricted units.
- (5) The individual requirements at Subsection A(1), (2), (3), and (4) above, except for Subsection A(4)(d) above, may be waived or altered with written approval from the Division if such waiver or alteration would not result in a material deviation from the municipal housing element and fair share plan. Waivers approved by the Division must be published on a public webpage within 30 days of approval. Any waiver or alteration that would result in a material deviation from the municipal housing element or fair share plan must receive written approval from a county-level housing judge.

§ 65-8. (Reserved)

§ 65-9. Affirmative marketing requirements.

- A. Montclair shall adopt by resolution an Affirmative Marketing Process, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented. The Affirmative Marketing Process is a marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affection or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Process is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. Supportive housing units, including group homes, must comply with the affirmative marketing requirements of their respective sponsoring programs, where applicable. The Affirmative Marketing Plan shall include a local preference for all households that live in the Township of Montclair or are full-time employees of either the Township of Montclair or the Township of Montclair Board of Education.
- B. The administrative agent is responsible for the affirmative marketing of affordable units, including accepting applications and maintaining a list of applicants for each affordable development. The administrative agent shall document and report the affirmative marketing plan for the municipality

and the affirmative marketing activities undertaken for each of the units within their purview to the Municipal Housing Liaison, who shall ensure that developers and administrative agents are marketing units in accordance with the provisions in this section.

- C. In accordance with N.J.A.C. 5:99-7, the Township may designate an experienced municipal staff person approved by the Division to be the administrative agent responsible for implementing the affirmative marketing plan. If the municipality does not designate a municipal staff person, it shall contract with other experienced administrative agent(s) approved by the Division to administer the affirmative marketing plan(s). The Township is ultimately responsible for the proper administration of the affirmative marketing program, including initial sales, rentals, resales, and re-rentals. The Township shall also ensure that all affordable unit, applicant, sales records, and other relevant files are returned to the municipality for reporting purposes and to aid with future resales.
- D. The affirmative marketing plan and all advertisements for the affordable units must contain the following information:
- (1) The name and location of the housing project;
 - (2) An address sufficient to find directions to the housing units;
 - (3) A range of prices or rent for the affordable housing units;
 - (4) The sizes, as measured in number of bedrooms and square footage, of the affordable housing units;
 - (5) The types (that is, family, age-restricted, or supportive) and number of affordable units available;
 - (6) The number of units available to very-low-, low-, and moderate-income households within the pertinent eligible income ranges;
 - (7) The accessibility features, if any, of the affordable housing units;
 - (8) The maximum income permitted to qualify for the affordable housing units;
 - (9) The population(s), if any, given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k)2;
 - (10) Where applications (paper and online) for the affordable housing units may be found;
 - (11) The expected lease-up/closing date(s) for the affordable housing units;
 - (12) A description of the random selection process that will be used to select occupants of affordable housing units and the expected date of the random selection;
 - (13) The business hours when interested households may obtain paper applications for the affordable housing units;
 - (14) Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
 - (15) The name of the sales agent and/or rental manager; and
 - (16) Application fees, if any.

- E. The affirmative marketing plan must identify specific strategies and mediums that will be used to advertise available housing units in the region in accordance with the goals and purposes stated at Subsection A above. The plan must include the following:
- (1) The names of specific radio stations, and television stations, and potential paid targeted digital advertising opportunities to be used throughout the housing region;
 - (2) The names of specific newspapers and other publications circulated within the housing region, such as neighborhood-oriented weekly newspapers, religious publications, and organizational newsletters;
 - (3) The physical characteristics of affordable units, including the unit type (that is, family, age-restricted, or supportive), bedroom counts, total square footage, and accessibility features;
 - (4) The names of specific community and regional organizations that will aid in soliciting low- and moderate-income applicants. Such organizations may include nonprofit, religious, governmental, fraternal, civic, and other organizations;
 - (5) The names of specific internet websites that operate as housing search websites and municipal and county websites where the affordable homes will be advertised;
 - (6) The names of specific social media websites and platforms where advertisements will be posted or linked;
 - (7) The locations of public transit stops in the housing region where flyers or other advertisements will be posted; and
 - (8) Other advertising and outreach efforts to groups that are least likely to be reached. If the applicant demonstrates that other advertising and outreach efforts are substantially more effective in reaching the target population than any of the means enumerated at Subsection E(1) through (7) above, the Division may approve a plan that substitutes an equal number of those means.
- F. In implementing the marketing program, the administrative agent shall:
- (1) Post a listing of the available affordable housing units to the New Jersey Housing Resource Center at least 60 days before the random selection process or within one day following the date the owner, developer, property manager, or other administrative entity provides information regarding the application process to prospective applicants or solicits any applications from potential applicants through any other means pursuant to N.J.S.A. 52:27D-321.6. It is the responsibility of the Municipal Housing Liaison, in coordination with the administrative agent(s), to ensure compliance with all provisions of N.J.S.A. 52:27D-321.3 through 321.6;
 - (2) Within one business day of listing the affordable housing units on the New Jersey Housing Resource Center, notify the local Continuum of Care of any supportive housing rental units that are reserved for individuals and families that are homeless and of any permanent supportive housing rental units;
 - (3) Publish at least one advertisement in a regional print or digital newspaper;
 - (4) Advertise the units on at least one housing search website, in addition to the Housing Resource Center;
 - (5) Undertake at least two additional regional marketing strategies using the sources listed at

Subsection E(1) through (8) above, with at least one non-digital strategy if the newspaper advertisement was in print, or with at least two non-digital strategies if the newspaper advertisement was digital; and

- (6) Designate an experienced staff person to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Alternatively, the administrative agent or municipality may contract with a HUD-certified housing counselor or an otherwise experienced entity approved by the Division to provide such counseling services.
- G. The affirmative marketing process must begin at least four months prior to expected occupancy and may begin before construction commences. All affirmative marketing advertising and outreach activities employed pursuant to Subsection F above must be employed at the start of the marketing program. For for-sale units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of for-sale units, in which case, applications must be accepted for no less than 30 days.
- H. No random selection may be conducted prior to 60 days following the initial advertisement on the New Jersey Housing Resource Center.
- I. Applications for affordable housing or notices thereof, if offered online, must be available in multiple locations, including, if they exist, the county administration building and the county library for each county within the housing region; the Montclair Township administration building and the Montclair Township library; and the developer's sales office. The Township shall post the application links and/or notices of affordable housing either directly on the home page of the Township's official website or on a landing page directly, clearly, and conspicuously linked to from the home page of the Township's official website. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
- J. Affordable housing developers shall incur the cost of affirmative marketing and advertising for affordable units. All affordable housing developers will be required to contract with the Township's designated administrative agent(s) to pay for the costs of affirmative marketing and advertising. The amount of these costs will be included in the contract with each administrative agent. In addition, every Planning Board and Zoning Board of Adjustment resolution approving affordable housing will include a condition that the affordable housing developer must pay the cost of the affirmative marketing and advertising.
- K. In carrying out the affirmative marketing process, the administrative agent shall comply with all provisions of the Fair Chance in Housing Act, N.J.S.A. 46:8-52 through 64.

§ 65-9.1. Household certification and referral.

- A. The administrative agent shall secure all information from applicant households necessary and appropriate to determine that restricted units are occupied by properly sized households of low- or moderate-income. No household may be referred to a restricted unit or receive a commitment with respect to a restricted unit unless that household has received a signed and dated certification, as set

forth in this section, and has executed a certificate in the form set forth at N.J.A.C. 5:80-26 Appendices D-3, J, or K, as applicable.

- B. The administrative agent shall prepare a standard form of certification and shall sign and date one such certification for each household when certified. An initial certification is valid for no more than 180 days unless a valid contract for sale or lease is executed within that time period, or in the case of a restricted ownership unit under construction, if the household has been referred to and has accepted the unit. If a valid contract for sale or lease is executed, the certification is valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. If the household has been referred to and accepted the restricted ownership unit under construction, the certification is valid until such time as the unit is ready for occupancy and a valid contract for sale of the unit is executed, or until such time as the household withdraws its acceptance of the restricted unit and no occupancy has occurred. Certifications may be renewed, in writing, at the request of a certified household for an additional period of 180 days at the discretion of the administrative agent. The administrative agent must provide applicant households a minimum of 10 business days from the date of initial request for information to produce documentation necessary for certification. The administrative agent shall transmit notice to each applicant household as to whether certification has been granted or denied, including the reason(s) for denying certification, if any, no later than five business days after determining the household's eligibility.
- (1) When reviewing an applicant household's income to determine eligibility, the administrative agent shall compare the applicant household's annual income to the regional low- and moderate-income limits calculated pursuant to N.J.A.C. 5:80-26.3. For the purposes of this chapter, the administrative agent shall determine household income in accordance with the procedure for calculating annual income at the time of initial occupancy and assistance, stipulated at 24 CFR 5.609, as it was in effect on December 20, 2024, and described in Chapter 5 of HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, which is available at https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsgh/4350.3.
 - (2) Household income is calculated by projecting current gross income over a 12-month period.
 - (3) The administrative agent shall deny the certificate of eligibility if the applicant household meets income eligibility requirements but possesses net household assets valued at an amount greater than the net asset limit, defined as the estimated median home equity held by New Jersey homeowners as determined annually by the United States Census Bureau's Survey of Income and Program Participation and published by the Census Bureau in "State-Level Wealth, Asset Ownership & Debt of Households Tables" in the "Wealth and Asset Ownership Data Tables" series, available at <https://www.census.gov/topics/income-poverty/wealth/data/tables.html>. Administrative agents shall determine household net assets in accordance with the procedure for calculating "net family assets" stipulated at 24 CFR 5.603(b), as it may be updated from time to time. The estimated net value of an applicant's primary residence shall be excluded from the calculation of net total assets if any of the following apply:
 - (a) The applicant's existing monthly housing costs (including principal, interest, taxes, homeowner and private mortgage insurance, and condominium or homeowner association fees, as applicable) exceed 38% of the household's eligible monthly income;
 - (b) The applicant is receiving assistance for the residence pursuant to 24 CFR 982.620 or pursuant to the Homeownership Option at 24 CFR 982;
 - (c) The applicant jointly owns the residence with an owner-occupant who is not part of the

applicant household and with whom the applicant does not reside;

- (d) The residence is a restricted ownership unit subject to the requirements of this chapter or a unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction, or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, including any 95/5-restricted unit;
 - (e) Any member of the applicant household is a victim of domestic violence, as defined by the Prevention of Domestic Violence Act of 1991, P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.); or
 - (f) The applicant demonstrates that the residence is not suitable for occupancy, according to any of the criteria listed at 24 CFR 5.618(a)(2)(i) through (v).
- C. The administrative agent shall require each member of an applicant household who is 18 years of age or older, except full-time students under the age of 26 and those under the age of 26 participating in a registered apprenticeship program, to provide documentation to verify the member's income, including income received by adults on behalf of minor children for their benefit. Household members 18 years of age or older who do not receive income or who qualify for the full-time student or apprenticeship exemption must produce documentation as to their current status.
 - D. Income verification documentation may include, but is not limited to, the acceptable forms of verification identified at Appendix 3 of HUD Handbook 4350.3 REV-1, available online at <https://www.hud.gov/sites/documents/43503a3hsg.pdf>, for each and every member of a household who is 18 years of age or older, except full-time students under the age of 26 and those under the age of 26 in a registered apprenticeship program.
 - E. At the discretion of the administrative agent, households may also be required to produce documentation of household composition for determining the correct unit size and applicable median income guide.
 - F. The administrative agent may deem ineligible an applicant who is unable to demonstrate sufficient present assets for down payment or security deposit purposes, subject to development phasing that may provide an opportunity for future savings.
 - G. The administrative agent may deem ineligible an applicant who is unable to verify funds claimed as assets, household composition, or other facts represented in the application. However, for purposes of the exception to the homeownership restriction at Subsection B(3)(e) above, the administrative agent must accept self-certification from any member of an applicant household claiming to be a victim of domestic violence.
 - H. The administrative agent shall deny a certificate of eligibility to an applicant who makes any willful or material misstatement of fact in seeking eligibility.
 - I. The administrative agent shall screen households that apply for low- and moderate-income housing for preliminary income eligibility by comparing their total gross annual income to the regional low- and moderate-income limits calculated for that year. In lieu of calculating household income, the administrative agent, at their discretion, may accept a household income determination made within the previous 12 months to assess eligibility for the Temporary Assistance for Needy Families (TANF) block grant, Medicaid, the Supplemental Nutrition Assistance Program (SNAP) benefit, the Earned Income Tax Credit (EITC), the Special Supplemental Nutrition Program for Women, Infants, and

Children (WIC), Supplemental Security Income, public housing, Section 8, or low-income housing tax credits (LIHTC). Additionally, the administrative agent shall accept household income determination made within the previous 180 days by another administrative agent who has successfully completed the Division's Education Program for administrative agents described at N.J.A.C. 5:99-9, as promulgated pursuant to N.J.S.A. 52:27D-321.i(1). The administrative agent must accept a household income determination made within the previous 180 days by the Department or the Agency, unless they conclude that the previous determination is rendered inapplicable by a compelling circumstance, such as a change in household composition.

- J. The administrative agent must accept self-certification from any member of an applicant household claiming to be a victim of domestic violence for purposes of the exception to the homeownership restriction at Subsection B(3)(e) above.
- (1) Any applicant information submitted to an administrative agent, including the fact that an individual is a victim of domestic violence, must be maintained in strict confidence by the administrative agent; and
 - (2) The administrative agent may not enter confidential information about a victim of domestic violence or their experience of domestic violence into any shared database or disclose any such information to any other entity or individual, except to the extent that the disclosure is requested or consented to, in writing, by the victimized individual in a time-limited release, required for use in an eviction proceeding, or otherwise required by applicable law.
- K. The administrative agent shall employ a random selection process when referring households to affordable units. Supportive housing units, including group homes, must comply with the selection processes of their respective sponsoring programs, where applicable. The administrative agent may elect to conduct the random selection prior to or after households are certified for eligibility. If conducting the random selection following household certification, the administrative agent shall notify all applicants of their eligibility or ineligibility in advance of the random selection.
- (1) Any or all of the following factors may be used to filter and/or rank the applicant pool in conducting the random selection. Such factors must be determined in advance of the random selection, and the affirmative marketing must disclose such factors and how they will be used. The administrative agent shall avoid excluding any applicant from the random selection on the basis of minor defects, ambiguities, and/or omissions in the application, including information indicating a household income that exceeds, but is plausibly close to the eligible limit for the unit(s) in question:
 - (a) Whether the household is seeking a for-sale unit, rental unit, or either;
 - (b) The minimum number of bedrooms the household qualifies for;
 - (c) Whether the household is seeking a very-low-income, low-income, or moderate-income unit;
 - (d) The unit type applicable to the household (that is, family, age-restricted, or supportive);
 - (e) Whether the household is seeking an accessible unit;
 - (f) For supportive housing applicants only, whether any member of the household belongs to the eligible population;
 - (g) The occupancy standards at N.J.A.C. 5:80-26.5(b); and

- (h) Any of the occupancy preferences allowed pursuant to Subsection K(2) below.
- (2) The following occupancy preferences shall be applied prior to the usage of the occupancy preference(s) by ordinance in any random selection process.
 - (a) A preference for very-low-, low-, and moderate-income households that reside or work in the Montclair Township;
 - (b) Subordinate to the local preference, a preference for very-low-, low-, and moderate-income households that reside or work in the housing region; and
 - (c) With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
- L. Developers and property management entities shall not discriminate against any person as prohibited by Federal Fair Housing laws or by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 50. Developers and property managers may not require or solicit a parent, guardian, or any other third-party person or entity to act as a guarantor for a unit that has been offered to an eligible household. Administrative agents and Municipal Housing Liaisons shall report property managers to the Division, which shall refer such matters to the Office of the Attorney General if they receive any complaints that developers or property managers are discriminating against applicants or residents.
- M. In certifying and referring households, the administrative agent shall comply with all provisions of the Fair Chance in Housing Act, N.J.S.A. 46:8-52 through 64. If an administrative agent randomly selects, certifies, and refers a family member or friend to an available unit, the administrative agent must disclose this relationship to the MHL.
- N. Upon being referred to an available unit, an applicant must be provided with a minimum of five business days to accept or reject the administrative agent's offer.

§ 65-10. Occupancy standards.

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
 - (1) Provide each bedroom is occupied by at least one person, except for age-restricted units;
 - (2) Provide a bedroom for every two adult occupants;
 - (3) With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
 - (4) Avoid placing a one-person household into a unit with more than one bedroom. Additional provisions related to occupancy standards (if any) shall be provided in the municipal operating manual.

§ 65-11. Control periods for restricted-ownership units and enforcement mechanisms.

- A. Each restricted ownership unit is subject to the affordability controls of this chapter for a deed-restricted control period. The minimum duration of the control period is:

- (1) 30 years for any ownership unit created on or after December 20, 2024;
 - (2) 30 years for any ownership unit receiving an extension of affordability controls on or after December 20, 2024, unless the original term of affordability exceeds 30 years, in which case, the minimum control period for the extension is the number of years, not less than 20 years, that in combination with the original term results in 60 years of affordability;
 - (3) Governed by the grant of substantive certification, judgment of compliance, grant agreement, or other contract for any prior round ownership unit, including all units governed by 95/5 restrictions, sold before December 20, 2024; and
 - (4) Governed by the form of UHAC in effect as of December 20, 2004, for any unit sold between December 20, 2004 and December 20, 2024, that is not the subject of a grant of substantive certification, judgment of compliance, grant agreement, or other contract.
- B. The control period for a restricted ownership unit commences on the date that the initial certified household takes title to the unit or, if existing affordability controls are being extended, on the effective date of the extension. The date of commencement must be identified in the deed restriction.
- C. The control period for a restricted ownership unit continues until the end date identified in the deed restriction, or until the minimum duration has elapsed if a specific end date cannot be determined according to the terms of the deed restriction. After the end of the control period, the restricted ownership unit remains subject to the affordability controls set forth in this chapter until the owner gives notice of their intent to make an exit sale, at which point:
- (1) If the municipality exercises the right to extend the affordability controls on the unit pursuant to Subsection H below, no exit sale occurs and a new control period commences; or
 - (2) If the municipality does not exercise the right to extend the affordability controls on the unit pursuant to Subsection H below, the affordability controls terminate following the exit sale.
- D. For each restricted ownership unit, at initial sale, the administrative agent shall determine a preliminary recapture amount equal to the price differential between the restricted price of the unit, based on the requirements at N.J.A.C. 5:80-26.7, and the non-restricted, fair market value of the unit, based on either an appraisal or the unit's equalized assessed value. Following this determination, the initial purchaser and each successive purchaser during the control period shall execute and deliver to the administrative agent a recapture note, secured by a recapture lien evidenced by a duly recorded mortgage on the unit, obligating the purchaser and the purchaser's heirs, successors, and assigns to repay a recapture amount at the time of the exit sale.
- (1) The recapture note and recapture lien must:
 - (a) Be in favor of the Agency, if the unit was financed through UHGRP, MONI, or CHOICE, in favor of the State if State funds other than UHGRP, MONI, or CHOICE contributed to the financing of the unit, in favor of the nonprofit if the unit was developed by a qualified nonprofit entity without Agency or State funding, and, in all other cases, in favor of Montclair Township;
 - (b) Be in the applicable forms prescribed at N.J.A.C. 5:80-26 Appendices D-2, L, M, N, O, and Q, incorporated herein by reference;
 - (c) In addition to the preliminary recapture amount calculated at initial sale, include the restricted price and the non-restricted, fair market value of the unit at the time of initial

sale; and

- (d) Provide that the actual recapture amount will be determined upon exit sale and will be equal to the price differential minus the equity share amount, or another amount determined by an ordinance of the municipal governing body, which must be less than the price differential minus the equity share amount.
- (2) The recapture lien must provide that:
 - (a) The recapture amount be reduced by the cumulative dollar value of capital improvements made after the last non-exempt sale during the control period for improvements and/or upgrades to the unit, as may be approved by the administrative agent, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien;
 - (b) The lien will remain a lien on the property until it is satisfied and the administrative agent files a discharge; and
 - (c) If the Township exercises the option to purchase the restricted ownership unit pursuant to Subsection H(6)(b) below, the Township is not required to satisfy the recapture lien.
- E. For each restricted ownership unit not governed by a 95/5 restriction, all conveyances must be made by deeds and restrictive covenants in the forms prescribed at N.J.A.C. 5:80-26 Appendices A, C, D-1, D-2, D-4, L, M, N, O, and Q, incorporated herein by reference, as applicable. For each restricted ownership unit governed by a 95/5 restriction, all conveyances during the 95/5 control period must be made by deeds and restrictive covenants in the forms prescribed at N.J.A.C. 5:80-26 Appendices B, C, G, and H, incorporated herein by reference. Prior to the issuance of any building permit for the new construction of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument in the form set forth at N.J.A.C. 5:80-26 Appendix P-1, incorporated herein by reference, that specifies, at a minimum, the total number of ownership units to be constructed, the number of restricted ownership units to be constructed, the anticipated numbers of restricted ownership units that will be very-low-income, low-income, and moderate-income, the address(es) and parcel(s) of the property, and the anticipated timeline for completion, including projected phasing. The preliminary instrument must provide that it will be replaced by the recording of the full deed restriction prior to the issuance of the certificate of occupancy, at which point the preliminary instrument will be extinguished.
- F. In furtherance of the State's vested interest in maintaining affordable housing, all conveyances of restricted ownership units are deemed to have been made by deeds and restrictive covenants as prescribed at Subsection E above, regardless of whether such required instruments have actually been prepared or executed. DCA, the Agency, and the Township may enforce the restrictions that would have been included in such instrument(s), as if such instrument(s) had, in fact, been prepared and duly executed. A sale or transfer of ownership made other than in conformity with the requirements of this chapter is not an authorized non-exempt sale; thus, all requirements, restrictions, and liens associated with the unit being sold or transferred remain in effect until full satisfaction thereof and compliance with this chapter.
- G. The Township may, in its sole discretion, elect to release a restricted ownership unit from the affordability controls of this chapter prior to any intended exit sale if:
 - (1) The minimum duration described at Subsection A above has fully elapsed by the effective date of release;

- (2) The municipal election to release the restricted unit from the affordability controls of this chapter is made pursuant to a municipal ordinance authorizing such elections;
 - (3) The recapture lien required pursuant to Subsection D above remains in full force and effect; and
 - (4) If the recapture lien is in favor of the municipality, the municipal housing element and fair share plan require that all proceeds from satisfaction of recapture liens on restricted ownership units be deposited into the municipal housing trust fund to be used to create new restricted units to replace units released from affordability controls within the municipality.
- H. Unless precluded by law, the municipality shall, in its sole discretion, elect to extend the affordability controls of this chapter on a restricted ownership unit, provided that:
- (1) The unit's deed-restricted control period ends:
 - (a) In the current round of housing obligations; or
 - (b) In the next round of housing obligations, if the municipal election to extend affordability controls is made no earlier than one year before the end of the current round of housing obligations;
 - (2) The recapture lien remains in full force and effect;
 - (3) A new deed restriction is issued that commences a new control period of at least the minimum duration specified at Subsection A(2) above;
 - (4) If the Township has not received notice of any intent by the owner to make an exit sale, the municipality notifies the owner, by certified mail and, if known, by email, of its election to extend affordability controls no earlier than one year and no later than 180 days before the execution of a new deed restriction extending affordability controls, during which time the owner shall have the opportunity to seek and provide notice of intent for an exit sale and/or obtain an appraisal of the value of their unit as if it were not subject to UHAC;
 - (5) If the Township has received notice of the owner's intent to make an exit sale, the Township notifies the owner, by certified mail and, if known, by email, of its election to extend affordability controls no later than 60 days after receiving notice of the owner's intent; and
 - (6) The Township either:
 - (a) Pays to the owner of the restricted unit an amount no less than the equity share amount;
 - (b) Purchases the restricted unit at a price no less than the total of the maximum restricted sale price and the equity share amount, then conveys the unit to a very-low-, low-, or moderate-income purchaser at a price not to exceed the maximum restricted sale price; or
 - (c) If the restricted unit is governed by a deed restriction executed prior to November 6, 2025, extends affordability controls pursuant to the terms of the governing deed restriction, provided that a new deed restriction is executed according to the requirements of this chapter.
- I. The owner of a restricted ownership unit must notify the administrative agent and Municipal Housing Liaison, by mail, of any intent to sell the unit at least 60 days prior to entering into an agreement for an exit sale. Upon receipt of the owner's notice, the municipality has 60 days to elect to extend controls on the unit pursuant to Subsection H above. If the owner does not sell the unit within one

year of the date of the delivery of the notice of intent to sell, the owner must submit a new notice of intent to sell at least 60 days before any future proposed date of sale.

- J. During the 60-day period following notice of an owner's intent to make an exit sale, any non-municipal entity favored on the recapture note and recapture mortgage lien pursuant to Subsection D(1)(a) above may give notice of intent to purchase the restricted ownership unit. If the Township does not extend affordability controls on the unit, the non-municipal entity may purchase the unit and convey it to an eligible purchaser pursuant to Subsection H(6)(b) above; provided that a new deed restriction is issued that commences a new control period of at least the minimum duration specified at Subsection A(2) above.
- K. Any price differential, equity share amount, or recapture amount must be based on a price that bears a reasonable relationship to the housing unit's fair market value.
 - (1) For all exit sales, the administrative agent shall examine the contract of sale to determine if the proposed sale price bears a reasonable relationship to the housing unit's fair market value. In making this determination, the administrative agent may rely on comparable sales data or an appraisal. The administrative agent may not approve any exit sale if the administrative agent determines that the sale price does not bear a reasonable relationship to fair market value. The administrative agent must make such a determination within 20 days of receipt of the contract of sale and then calculate the price differential and recapture amount;
 - (2) For all municipal extensions of affordability controls pursuant to Subsection H(6)(a) and (b), the price differential used to determine the equity share amount must be based on either an appraisal or the unit's equalized assessed value. The administrative agent shall determine if the price differential is based on a price that bears a reasonable relationship to the housing unit's fair market value. The municipality may not make or approve any payment of an equity share amount that is not reasonably related to the housing unit's fair market value; and
 - (3) The administrative agent shall adopt an appeal procedure by which an owner may submit written documentation requesting the administrative agent to recalculate the price differential, equity share amount, and/or recapture amount if the owner believes an error has been made, or to reconsider a determination that a price does or does not bear a reasonable relationship to fair market value. A determination made as a result of such an appeal is a final determination of the administrative agent appealable pursuant to N.J.A.C. 5:80-26.20.
- L. The entry and enforcement of any judgment of foreclosure on a restricted ownership unit shall not extinguish the affordability controls set forth in this chapter.
- M. All extensions of affordability controls on restricted ownership units must be made according to the requirements of this section to receive credit pursuant to the Act. This requirement applies to extensions of affordability controls on any restricted ownership units currently governed by control periods that commenced prior to November 6, 2025, including all units governed by 95/5 restrictions.
- N. Upon termination of affordability controls on a restricted ownership unit, the administrative agent shall, within 60 days of termination, execute a release, substantially in the form set forth at N.J.A.C. 5:80-26 Appendix F-1, incorporated herein by reference, of all restriction instruments with respect to the unit. The owner of the restricted unit shall record the release instruments and promptly return the recorded originals to the administrative agent. The owner of a unit released from the affordability controls of this chapter may sell the unit to any purchaser at the fair market price.

§ 65-12. Price restrictions for restricted-ownership units, homeowners' association fees and resale

prices.

- A. The administrative agent shall set the initial sale price for a restricted ownership unit. If the unit is receiving assistance pursuant to the AHTF, the price must be consistent with the AHTF grant agreement.
- B. The initial purchase price for all restricted ownership units is calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Freddie Mac 30-Year Fixed Rate-Mortgage rate of interest), taxes, homeowner and private mortgage insurance, and realistic condominium or homeowner association fees, do not exceed 30% of the eligible monthly income of an appropriate household size as determined pursuant to N.J.A.C. 5:80-26.4; provided, however, that the price is subject to the affordability average requirement at N.J.A.C. 5:80-26.4. The maximum resale price for a restricted ownership unit, if the resale occurs prior to the one-year anniversary of the date on which title to the unit was first transferred to a certified household, is the initial purchase price. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3.
- C. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d); however, the increase for capital improvements may not result in the final maximum resale price exceeding whatever initial purchase price the unit would have if it were being offered for purchase for the first time, calculated pursuant to Subsection B above. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time, calculated pursuant to Subsection B above. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
- D. The administrative agent shall approve all resale prices, in writing, and in advance of the resale, to ensure compliance with the foregoing standards. The administrative agent may approve an actual resale price that is lower than the maximum resale price for reasons including, but not limited to, home disrepair and market decline, and shall not calculate a resale price lower than the last recorded purchase price unless they determine that the decreased price is a result of such reasons.
- E. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection, are governed by the ordinance.

§ 65-13. Buyer income eligibility.

- A. Very-low-income ownership units are reserved for households with a household income less than or equal to 30% of regional median income. Low-income ownership units are reserved for households with a household income less than or equal to 50% of regional median income. Moderate-income ownership units are reserved for households with a household income less than 80% of regional

median income. For example, a household earning 48% of regional median income may qualify for any low-income or moderate-income unit; however, a household earning 53% of regional median income would qualify for a moderate-income unit, but would not qualify for a low-income unit. Notwithstanding the foregoing, the administrative agent may permit moderate-income purchasers to buy low-income units in housing markets where, as determined by the Division, units are reserved for low-income purchasers, but there is an insufficient number of low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a low-income unit and sold at a low-income price point such that on the next resale the unit will still be affordable to low-income households and able to be purchased by a low-income household. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the affirmative marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit. A certified household that purchases a restricted ownership unit must occupy it as the principal residence and not lease the unit; provided, however, the administrative agent may permit the owner of a restricted ownership unit, upon a showing of hardship, to lease the unit to a certified household for a period not to exceed one year.

- B. The administrative agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the unit (including principal, interest, taxes, homeowner and private mortgage insurance, and realistic condominium or homeowner association fees, as applicable) does not exceed 35% of the household's eligible monthly income. The administrative agent, however, may exercise its discretion to certify a low- or moderate-income household as eligible despite the fact that the unit's monthly housing cost would exceed the 35% level, if the household obtains a firm mortgage loan commitment at the higher level from a licensed financial institution, under terms consistent with the requirements of the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 through 35, including certification from a nonprofit counselor approved by HUD or the New Jersey Department of Banking and Insurance that the borrower has received counseling on the advisability of the loan transaction.

§ 65-14. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by an ownership unit, the owner shall submit to the administrative agent a notice of intent to incur such indebtedness (for example, a home equity loan or solar loan), in such form and with such documentary support as determined by the administrative agent, and the owner may not incur any such indebtedness unless and until the administrative agent has determined and confirmed, in writing, that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by an ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.7(c).

§ 65-14.1. Capital improvements to ownership units.

- A. The owner of an ownership unit may apply to the administrative agent to recalculate the maximum sale price for the unit to reflect eligible capital improvements made since they purchased the unit. Eligible capital improvements are limited to those that make the unit suitable for a larger household, that is, adding bedrooms and/or bathrooms. However, the maximum sale price of an improved housing unit may not exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, or flooring) are included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of signing the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, subject to 10-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning may not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at resale.
- C. Capital improvements, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d), approved, in writing, by the administrative agent for non-cosmetic replacement of existing items of property or non-cosmetic improvement to the property (for example, replacement of a leaky roof, installation of a solar energy system owned by the homeowner, installation of energy-efficient windows, or replacement of broken appliances with ENERGY STAR-labeled products) shall not cause the maximum sale price to be recalculated, but will be factored into calculating reductions to the recapture amount pursuant to N.J.A.C. 5:80-26.6(d)2i and into calculating adjustments to the maximum sale price pursuant to N.J.A.C. 5:80-26.7(c). Capital improvements are subject to 10-year, straight-line depreciation.

§ 65-14.2. Maintenance of restricted ownership units.

Upon the first transfer of title that follows the expiration of the deed-restricted control period provided pursuant to N.J.A.C. 5:80-26.6, if requested by the administrative agent, the owner of a restricted ownership unit shall obtain a Continuing Certificate of Occupancy or a certified statement from the municipal building inspector stating that the unit meets all code standards.

§ 65-15. Control periods for restricted rental units.

- A. Each restricted rental unit is subject to the affordability controls of this chapter for a deed-restricted control period. The minimum duration of the control period is:
 - (1) 40 years for any rental unit created on or after December 20, 2024;
 - (2) 30 years for any rental unit in a 100% affordable property that, on or after December 20, 2024, elects to extinguish its existing deed restriction to enter into a new deed restriction and commence refinancing and/or rehabilitation for the purpose of preservation;
 - (3) 30 years for any other rental unit that, on or after December 20, 2024, extends its affordability controls for a new term of affordability, unless the original term of affordability exceeds 30 years, in which case, the minimum control period for the extension is the number of years, not less than 20, that in combination with the original term results in 60 years of affordability;

- (4) Governed by the grant of substantive certification, judgment of compliance, grant agreement, or other contract for any prior round rental unit that was issued its certificate of occupancy before December 20, 2024; and
 - (5) Governed by the form of UHAC in effect as of December 20, 2004, for any prior round rental unit that was issued its certificate of occupancy between December 20, 2004, and December 20, 2024, and that is not the subject of a grant of substantive certification, judgment of compliance, grant agreement, or other contract.
- B. The control period for the restricted rental unit(s) in a development commences on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension.
- C. The control period for the restricted rental unit(s) in a development continues until the end date identified in the deed restriction, or until the minimum duration has elapsed if a specific end date cannot be determined according to the terms of the deed restriction. After the end of the control period, each restricted rental unit in the development remains subject to the affordability controls of this chapter until:
 - (1) The occupant household vacates the unit, at which point affordability controls terminate; or
 - (2) The occupant household's household income is found to exceed 80% of the regional median income for the relevant household size, after which affordability controls terminate at the later of either the next scheduled lease renewal or in 60 days.
- D. The deeds of all real property that include restricted rental units created or extended pursuant to the existing rules must contain deed-restriction language that conforms with the requirements of this chapter and is substantially in the form set forth at N.J.A.C. 5:80-26 Appendix E. The deed restriction:
 - (1) Is to be read in accordance with the requirements of this chapter, such that any term that directly conflicts with or circumvents the requirements of this chapter, regardless of intention, is unenforceable, of no legal effect, and contrary to the public policy of the State;
 - (2) Is governed by the requirements of this chapter regardless of the language ultimately utilized in the recorded deed restriction document;
 - (3) Is severable, such that invalidation of any provision due to inconsistency with these regulations will not terminate the deed restriction, but, rather, will result in the deed restriction being read to include the provision of these regulations with which the original language was inconsistent;
 - (4) Has priority over all mortgages on the property; and
 - (5) Must be filed with the records office of the county in which the unit is located by the developer or owner of the restricted rental units, who then must, no later than 30 days after the commencement of the control period, provide to the administrative agent:
 - (a) A copy of the filed deed restriction; and
 - (b) Certification by the preparer of the deed restriction that the deed restriction conforms with all requirements of this chapter, and that the deed restriction language at N.J.A.C. 5:80-26 Appendix E has been included therein.
- E. Failure to record a deed restriction does not, under any circumstances, excuse a property from the requirements of this chapter. If a development is sold by a developer prior to recording the deed

restriction, the buyer is not excused from adhering to the requirements of this chapter and any recourse shall be to recover from the seller rather than seeking to extinguish any affordability controls of the development. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument in the form set forth at N.J.A.C. 5:80-26 Appendix P-2, incorporated herein by reference that specifies, at a minimum, the total number of rental units to be constructed/rehabilitated, the number of restricted rental units to be constructed/rehabilitated, the anticipated numbers of restricted rental units that will be very-low-income, low-income, and moderate-income, the address(es) and parcel(s) of the property, and the anticipated timeline for completion, including projected phasing. The preliminary instrument must provide that it will be replaced by the recording of a full deed restriction prior to the issuance of the certificate of occupancy, at which point the preliminary instrument will be extinguished. The full deed restriction must be recorded prior to receiving a certificate of occupancy.

- F. A restricted rental unit remains subject to the affordability controls of this chapter despite the occurrence of any of the following events:
- (1) A sublease or assignment of the lease of the unit;
 - (2) A sale or other voluntary transfer of ownership of the unit;
 - (3) The entry and enforcement of any judgment of foreclosure or grant of a deed in lieu of foreclosure; or
 - (4) The end of the control period, until the occupant household vacates the unit pursuant to Subsection C(1) above or is found to be income-ineligible pursuant to Subsection C(2) above.
- G. The Township may, in its sole discretion, elect to release any or all of the restricted rental units in a development from the affordability controls of this chapter prior to the end of the deed-restricted control period if:
- (1) The minimum duration of the control period described at Subsection A above has fully elapsed by the effective date of release;
 - (2) The municipal election to release the restricted unit(s) from the affordability controls of this chapter is made pursuant to a municipal ordinance authorizing such elections; and
 - (3) The release is not inconsistent with the municipal housing element and fair share plan.
- H. A municipality may, in its sole discretion, elect to extend the affordability controls of this chapter on any or all of the restricted rental units in a development; provided that:
- (1) The deed-restricted control period ends:
 - (a) In the current round of housing obligations; or
 - (b) In the next round of housing obligations, if the municipal election to extend affordability controls is made no earlier than two years before the end of the current round of housing obligations;
 - (2) The municipal election to extend the affordability controls is made pursuant to a municipal ordinance authorizing such elections;
 - (3) A new deed restriction is issued, containing deed restriction language that conforms with the requirements of this chapter and is substantially in the form set forth at N.J.A.C. 5:80-26

Appendix E that commences a new control period of at least the minimum duration specified at Subsection A(3) above;

- (4) If the municipality has not received notice of the owner's intent for the affordability controls to be extinguished, the municipality notifies the owner of the development, by certified mail and by email, of its election to extend affordability controls no later than 180 days prior to the execution of a new deed restriction extending affordability controls, except that the notice period may be shortened with consent of the owner;
 - (5) If the municipality has received notice of the owner's intent for the affordability controls to be extinguished, the municipality notifies the owner, by certified mail and by email, of its election to extend affordability controls no later than 180 days after receiving notice of the owner's intent;
 - (6) If permitted by the relevant statute, the municipality grants or extends an agreement for payment in lieu of taxes pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., or pursuant to N.J.S.A. 55:14K-37.b; and
 - (7) If seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(7), to support the preservation of the restricted rental units, the municipality contributes:
 - (a) At least \$12,000 per restricted unit (which amount may be adjusted annually in accordance with the maximum annual rent increase determined pursuant to N.J.A.C. 5:80-26.13(b)) from the municipal affordable housing trust fund, if an agreement for payment in lieu of taxes has been granted or extended;
 - (b) At least \$17,500 per restricted unit (which amount may be adjusted annually in accordance with the maximum annual rent increase determined pursuant to N.J.A.C. 5:80-26.13(b)) from the municipal affordable housing trust fund, if no agreement for payment in lieu of taxes has been granted or extended; or
 - (c) Any other assistance not less than the equivalent of \$10,000 per restricted unit (which amount may be adjusted annually in accordance with the maximum annual rent increase determined pursuant to N.J.A.C. 5:80-26.13(b)), if the assistance was approved pursuant to N.J.S.A. 52:27D-329.2(4) as part of the municipality's compliance certification or by DCA, and if the assistance is consistent with the municipality's housing element and fair share plan.
- I. The owner of a restricted rental unit must notify the administrative agent and Municipal Housing Liaison, by certified mail and by email, as well as all current tenants, by plain language notice, of any intent for the affordability controls on the unit to be extinguished at the end of the control period no earlier than one year before the end of the control period. Upon receipt of the owner's notice, the municipality has 180 days to extend controls on the unit pursuant to Subsection H above. Affordability controls shall remain in effect during the 180-day notice period, or, if the owner never provides notice, indefinitely, unless the municipality affirmatively declines to extend affordability controls.
- J. The owner of a 100% affordable rental development may elect to extinguish the existing deed restriction and extend the affordability controls of this chapter on all of the restricted rental units in the development, provided that:
- (1) A refinancing and/or rehabilitation of the property is commenced;

- (2) A new deed restriction is issued, containing deed restriction language that conforms with the requirements of this chapter and is substantially in the form set forth at N.J.A.C. 5:80-26 Appendix E that commences a new control period of at least the minimum duration specified at Subsection A(2) above; and
- (3) Either of the following is true:
 - (a) The current control period has been in effect for at least 30 years; or
 - (b) The property is participating in a State-administered preservation program that has allowed the refinancing and/or rehabilitation to commence prior to the 30th year of the deed restriction as necessary to preserve affordable housing.
- K. All extensions of affordability controls on restricted rental units must be made according to the requirements of this section to receive credit pursuant to the Act, including any restricted unit that is currently governed by control periods that commenced prior to December 20, 2025.
- L. For restricted rental units, upon municipal release from the affordability controls of this chapter pursuant to Subsection G above, or at the end of the control period, if no extension of affordability controls has occurred:
 - (1) The administrative agent, within 60 days, shall execute a release, in the form set forth at N.J.A.C. 5:80-26 Appendix F-2, incorporated herein by reference, of all restriction instruments with respect to the unit(s), but providing that each released unit remains subject to the affordability controls of this chapter until the occurrence of Subsection C(1) or (2) above;
 - (2) The owner of the unit(s) shall record the release instruments and return the recorded originals promptly to the administrative agent; and
 - (3) Following the termination of affordability controls on the unit(s), the owner of the unit(s) may lease each unit to any tenant at any rent.

§ 65-16. Price restrictions for rental units; leases.

- A. The administrative agent shall set the initial rent for a restricted rental unit. If the unit is receiving assistance pursuant to the AHTF, the initial rent must be consistent with the AHTF grant agreement. The initial rent must be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.4; provided, however, that the rent is subject to the affordability average requirement at N.J.A.C. 5:80-26.4. For assisted living units, the combined cost of rent, food, and services may not exceed 80% of the eligible monthly income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.4.
- B. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3. This rent increase may not exceed 5% in any one year and notice thereof must be filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead

of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.

- C. Approved initial rents are fixed as of the start of the property's initial lease-up. Rent increases may not be implemented during lease-up. Each new, separately financed phase of a project may seek MHL approval to use the then-effective initial rents, provided that the lease-up of the phase will occur at least 12 months after the prior phase was placed in service. Rents may not be increased more than once a year or by more than one increment at one time. Rents may not be increased at the time of a new occupancy if the new occupancy occurs within one year of the last occupancy and prior to the next published increase amount.
- (1) No additional fees, operating costs, or charges may be added to the approved rent (except in the case of units in assisted living residences, for the customary charges for food and services) without the express written approval of the administrative agent. Operating costs for the purposes of this section include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than 1 1/2 off-street parking spaces per unit, parking fees for one parking space per household. Any fee structure that would remove or limit affordable renters' access to any amenities or services that are required or included for market-rate renters is prohibited. Application fees (including the charge for any credit check) may not exceed 5% of the monthly rent of the applicable restricted unit and are payable to the administrative agent to be applied to the costs of administering the controls in this chapter as applicable to the unit. Fees for truly optional, unit-specific, non-communal items that are charged to market-rate tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may be charged to affordable tenants, if applicable. Pet fees may not exceed \$30 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited. Fees for other optional, unit-specific, non-communal items may not exceed the amounts charged to market-rate tenants.
 - (2) For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with Subsection C(1) above, may continue until December 20, 2025, or until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.
- D. A written lease is required for all restricted rental units, except for units in assisted living residences. Final lease agreements are the responsibility of the landlord and the prospective tenant. Tenants are responsible for security deposits and the full amount of the rent as stated in the lease. All lease provisions must comply with applicable law. The landlord shall provide the administrative agent with sufficient information for preparation of a unit inventory form for entry into the centralized affordable housing unit inventory system. The landlord shall submit a copy of each lease entered into with a certified household to the administrative agent within 10 business days after the execution of each lease.
- E. The lease must specify which tenant-paid utilities are included in the utility allowance. At the time of lease-up, tenants must be provided a copy of the utilities chart that was used to determine the utility allowance. The allowance for utilities must be consistent with one of the following:
- (1) The utility allowance approved by DCA for its Section 8 program;
 - (2) For units constructed with State funding, an alternate utility allowance approved by DCA or the Agency; or

- (3) For units that receive ENERGY STAR certification, a utility allowance calculated according to an energy consumption model provided by an energy consultant with an active registration with the New Jersey Board of Public Utilities, subject to approval by the administrative agent.

§ 65-17. Tenant income eligibility.

- A. Low-income rental units are reserved for households with household incomes less than or equal to 50% of regional median income. Moderate-income rental units are reserved for households with household incomes less than or equal to 80% of regional median income. Very-low-income rental units are reserved for households with household incomes less than or equal to 30% of regional median income.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection B(1) through (5) above with the administrative agent, who shall counsel the household on budgeting.

§ 65-18. 95/5 restrictions.

- A. Each existing unit governed by a 95/5 restriction shall be governed according to its deed restriction for the duration of the control period identified in the deed restriction or the municipal resolution extending affordability controls, or, if no control period is identified, until the start of the Fifth Round on July 1, 2035. Following the expiration or release of the 95/5 deed restriction, any extension of affordability controls on the unit must be carried out in accordance with the procedures and instruments outlined at N.J.A.C. 5:80-26.6(h) to receive credit pursuant to the Act.
- B. The owner of a unit governed by a 95/5 restriction shall notify the administrative agent and Municipal Housing Liaison by certified mail and by email of any intent to sell the unit 90 days prior to entering into an agreement for the first authorized non-exempt sale after controls have been in effect on the housing unit for the period specified at N.J.A.C. 5:80-26.6.
- C. Upon receipt of a notice specified at Subsection B above, the option to buy the unit at the maximum allowable restricted sale price or any mutually agreed upon sale price that does not exceed the

maximum allowable restricted sale price will be available for 90 days. The administrative agent shall notify the Municipal Housing Liaison and the Division that the unit is for sale. The municipality shall have the right of first refusal to purchase the unit. If the municipality exercises this option, it may enter into a contract of sale for the unit. If the municipality does not exercise this option within 90 days, the first of the other entities giving notice to the seller of its intent to purchase during the 90-day period may purchase the unit. If the option to purchase the unit at the maximum allowable restricted sale price is not exercised by one of the above entities by a written offer to purchase the housing unit within 90 days of receipt of notice of the intent to sell, the owner may proceed to sell the housing unit pursuant to N.J.A.C. 5:80-26.22. If the owner does not sell the unit within one year of the date of the delivery of the notice of intent to sell, the option to buy the unit will be restored and the owner will be required to submit a new notice of intent to sell 90 days prior to any future proposed date of sale.

- D. Any option to buy a housing unit at the maximum allowable restricted sale price must be exercised by certified mail and, if known, by email and will be deemed to have been exercised three days following the earlier of the postmark of the certified mail or the transmission of the email.

§ 65-18.1. Seller option on 95/5-restricted units.

- A. An eligible seller of a unit governed by a 95/5 restriction that has been controlled for the period established in the governing deed restriction who has provided the requisite notice of an intent to sell may proceed with the sale if no eligible entity exercises its option to purchase within 90 days. The seller may sell the unit to a certified household at an affordable price or to any purchaser at market price.
- B. Subject to this chapter, the seller may:
- (1) Sell to a certified household at a price not to exceed the maximum permitted sale price in accordance with N.J.A.C. 5:80-26.7; provided that the unit is regulated by the deed restriction and lien in accordance with N.J.A.C. 5:80-26.6. The administrative agent shall certify the income qualifications of the purchaser and shall ensure that the housing unit is regulated by the deed restriction and lien in accordance with N.J.A.C. 5:80-26.6; or
 - (2) Exercise the repayment option and sell to any purchaser at market price, provided that 95% of the price differential, or another amount determined by an ordinance of the municipal governing body, not to exceed 95% of the price differential, is paid to the Municipal Affordable Housing Trust Fund, through the administrative agent, as an instrumentality of the municipality, at closing. Any alternative amount or formula for calculating the alternative amount determined by such ordinance must be uniformly available to all sellers exercising the repayment option within the municipality.
- C. The administrative agent shall examine any contract of sale containing a repayment option to determine if the proposed sale price bears a reasonable relationship to the housing unit's fair market value. In making this determination, the administrative agent may rely on comparable sales data or an appraisal. The administrative agent shall not approve any contract of sale where there is a determination that the sale price does not bear a reasonable relationship to fair market value. The administrative agent shall make such a determination within 20 days of receipt of the contract of sale and shall calculate the repayment option payment.
- D. The administrative agent shall adopt an appeal procedure by which a seller may submit written documentation requesting the administrative agent to recompute the repayment obligation if the seller believes an error has been made, or to reconsider a determination that a sale price does not bear a

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reasonable relationship to fair market value. A repayment obligation determination made as a result of an owner's appeal is a final determination of the administrative agent appealable pursuant to N.J.A.C. 5:80-26.20.

- E. The repayment will occur at the date of closing and transfer of title for the first non-exempt transaction after the expiration of controls on affordability.
- F. The administrative agent shall deposit all repayment proceeds into the Municipal Housing Trust Fund, which may be used as specified at N.J.S.A. 52:27D-329.2. Money deposited in housing trust funds may not be expended until the municipality submits and the Division or the county-level housing judge approves a spending plan. See N.J.A.C. 5:99-2 and N.J.S.A. 52:27D-329.2.

§ 65-18.2. Severability.

If any sentence, paragraph, section, or other component of this chapter, or the application thereof to any person or circumstance is adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any of the foregoing components loses its force and effect, such judgement or action will apply only to the specific component under consideration and will not affect, impair, or void the remaining provisions of this chapter.

Chapter 67**AIR CONDITIONING AND REFRIGERATION**

[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. 65 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 121.

Water — See Ch. 341.

§ 67-1. Definitions.

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

CONDITIONING EQUIPMENT — Any individual or collective system of refrigeration, air-conditioning or refrigeration and air-conditioning equipment requiring the use of water.

NEW INSTALLATION OF CONDITIONING EQUIPMENT — Conditioning equipment installed on or after May 7, 1957.

§ 67-2. Determination of capacity.

For the purpose of this chapter, the rated capacity of conditioning equipment in tons shall be determined in accordance with one of the following methods:

- A. Manufacturer's horsepower rating for compressor prime mover of any conditioning equipment which does not involve a refrigeration unit.
- B. Two-thirds of manufacturer's horsepower rating for compressor prime mover of any conditioning equipment which involves a refrigeration unit.
- C. For conditioning equipment using gas for energy, manufacturer's rated capacity in BTU per hour of the unit divided by 12,000.

§ 67-3. Permit required.

No new installation of conditioning equipment requiring the use of water from any source shall be made on any premises until a permit authorizing such installation has been issued by the Building Subcode Official.

§ 67-4. Application procedure.

Application for a permit required by § 67-3 shall be made in duplicate on forms supplied by the Building Subcode Official. The information requested on such form shall be furnished by the applicant. After approval by the Building Subcode Official, one copy of the application shall be returned to the applicant and serve as a permit.

§ 67-5. Permit fee.

The fee for a permit required by § 67-3 shall be \$25 and shall accompany the application.

§ 67-6. Requirements for all installations.

All new installations of conditioning equipment, regardless of the source of water supply, shall conform to and comply with the following requirements:

- A. The conditioning equipment shall not discharge water into any sanitary sewer.
- B. The wastewater drain from any conditioning equipment shall not be connected directly with any storm sewer, house drain, water leader or other waste pipe.

§ 67-7. Use of water from source for human consumption.

In addition to complying with the requirements of § 67-6, all new installations of conditioning equipment using water derived from any source used for human consumption shall also comply with the following specifications:

- A. Each direct water connection to any such conditioning equipment shall be equipped with a check valve. When the water connection is not made directly to the conditioning equipment, as in the case of equipment using only makeup water for evaporation losses, the discharge must be to the sump of the equipment at a point above the overflow of the sump and through a float valve set to maintain a water level at a point below the sump overflow level.
- B. Conditioning equipment with a capacity of more than 20 pounds of refrigerant shall be provided with a relief valve installed on the outlet side of the check valve of the water supply connection. Such relief valve shall be set at five pounds above the maximum water pressure at the point of installation.

§ 67-8. Use of water from public supply system.

All new installations of conditioning equipment requiring the use of water from the public water supply system and made in any premises for a single consumer or for a single unit serving more than one consumer in a single building shall comply with the following requirements and specifications:

- A. If of more than three tons' capacity, such conditioning equipment shall be equipped with a water conserving device such as an economizer, evaporative condenser, water cooling tower or similar apparatus. Such device shall not consume for makeup purposes more than 5% of the water consumption that would be required without such device.
- B. If of three tons' capacity or less and not using recirculated water, such conditioning equipment shall be provided with an automatic water supply regulating device so as to limit the flow of water in relation to the condenser temperature reduction requirements of the apparatus. In no case shall the conditioning equipment use more than 1 1/2 gallons of water per minute per ton of capacity.
- C. If two or more units which in the aggregate total more than three tons' capacity are installed to serve the same building or premises, each of said units shall be subject to all the requirements applicable to a unit of equipment of more than three tons' capacity, as set forth in Subsection A of this section.

§ 67-9. 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.

Chapter 71**ALARMS, BURGLAR AND FIRE**

[HISTORY: Adopted by the Council of the Township of Montclair 5-9-2006 by Ord. No. 06-16.⁴⁵ Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 27.

Police Department — See Ch. 51.

§ 71-1. Purpose.

- A. The purpose of this chapter is to encourage alarm users and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms.
- B. This chapter governs alarm systems intended to summon law enforcement response, and requires registration, establishes fees, provides for penalties for violations and establishes a system of administration.

§ 71-2. Definitions.

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

ALARM ADMINISTRATOR — The person designated by the Montclair Police and Fire Department to administer, control and review false alarm reduction efforts, provide public reports regarding alarm response statistics and administer the provisions of this chapter.

ALARM INSTALLATION COMPANY — A person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site.

ALARM NOTIFICATION — A timely verbal report to the Montclair Police or Fire Department that an alarm, either manual or automatic, has been activated at a particular alarm site.

ALARM REGISTRATION — Authorization in accordance with this chapter granted by the alarm administrator to an alarm user to operate an alarm system.

ALARM SITE — A single fixed premises or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multiunit building or complex, shall be considered a separate alarm site.

ALARM SYSTEM — A device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement or fire response, including local alarm systems. The term "alarm system" does not include an alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site.

ALARM USER — Any person who has contracted for monitoring, repair, installation or maintenance

45. Editor's Note: This ordinance also repealed former Ch. 71, alarm systems, adopted 11-25-1986 by Ord. No. 86-47, as amended.

service from an alarm installation company or monitoring company for an alarm system, or who owns or operates an alarm system which is not monitored, maintained or repaired under contract.

ARMING STATION — A manually operated device that allows control of an alarm system.

AUTOMATIC VOICE DIALER — Any electrical, electronic, mechanical or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch.

CANCELLATION — Notification given to the Montclair Police or Fire Department by a monitoring company (designated by the alarm user) subsequent to an alarm notification for the alarm site that there is no emergency at the alarm site requiring a law enforcement officer's or fire-fighter's response.

CONVERSION — The transaction or process by which one alarm installation company or monitoring company begins the servicing and/or monitoring of a previously unmonitored alarm system or an alarm system previously serviced and/or maintained by another alarm company.

DURESS ALARM — A silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system, the safety of the alarm user is threatened and protection of a sworn officer or fire-fighter is required.

FALSE ALARM — An alarm dispatch request to the Montclair Police Department, when the responding officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site and there is no indication that an abnormal weather condition or other severe event could have caused the generation of an alarm. "False alarm" also means an alarm dispatch request to the Montclair Fire Department, when the responding fire-fighter does not find any evidence of a fire or fire emergency after completing a timely investigation of the alarm site.

HOLDUP ALARM — A silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

LICENSE — A license issued by the State of New Jersey to an alarm installation company or monitoring company to sell, install, monitor, repair or replace alarm systems.

LOCAL ALARM SYSTEM — Any alarm system which is not monitored and which annunciates an alarm condition only at or near the alarm site.

MONITORING — The process by which a monitoring company receives alarm signals and other alarm system condition signals from alarm systems and relays alarm notifications to the Montclair Police or Fire Department and to other emergency response agencies.

MONITORING COMPANY — A person in the business of providing monitoring services.

ONE PLUS DURESS ALARM — The manual activation of a silent alarm by entering at an arming station a code that adds one to the last digit of the normal arm/disarm code (e.g., normal code = 1234, One Plus Duress Code = 1235).

PANIC ALARM — An audible alarm system signal generated by the manual activation of the device intended to signal a personal safety or other emergency situation requiring the protection of a law enforcement officer or fire-fighter.

PERSON — An individual, corporation, partnership, association, organization or similar entity.

RESPONDER — An individual capable of reaching the alarm site within 30 minutes and having access to the alarm site, the operating codes for the alarm system and the authority to approve repairs to the alarm system.

CHIEF — The Chief of the Montclair Police or Fire Department.

SIA CONTROL PANEL STANDARD CP-01 — The ANSI - American National Standard Institute approved Security Industry Association - SIA CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

TAKEOVER — The transaction or process by which an alarm user assumes or acquires ownership of an existing alarm system which was previously owned by another alarm user.

VERIFY — An attempt by a monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this chapter, telephone verification shall require as a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to determine whether an alarm signal is valid before requesting official dispatch.

ZONE — A division of devices into which an alarm system is divided to indicate the general location from which an alarm system signal is transmitted.

§ 71-3. Registration required; application; fee; transferability; false statements.

- A. No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm registration. A separate alarm registration is required for each alarm site.
- B. The fee for an alarm registration or an alarm registration renewal is set forth below and shall be paid by the alarm user:
 - (1) Registration fees: \$50.
 - (2) Renewal fees: \$50.
 - (3) Late fee for nonpayment within 30 days of notification of an initial registration fee or renewal fee: \$25.
- C. Existing alarm systems. Any alarm system which has been installed before the effective date of this chapter shall be registered by the alarm user within 60 days of such effective date. Within 15 days of written modification from the alarm administrator, an alarm installation company or monitoring company shall provide a list of existing alarm users in the Township (provided such information is not protected from disclosure by any federal, state or local requirements).
- D. New alarm systems. Any alarm installation company that installs an alarm system on premises located within the Township shall, within 10 days from the date of installation, notify the alarm administrator, using a form provided by the alarm administrator, that an alarm system has been installed and send to the alarm administrator the name and address of the alarm user and a copy of the Police and Fire Department's false alarm prevention checklist. Failure of an alarm installation company to notify the alarm administrator of a new alarm system installation within 10 days after installation shall result in a fine of \$100 to the alarm installation company. Information provided in accordance with this requirement shall be treated as private and proprietary information and not made available to any person outside of the Montclair Police or Fire Department or its bonded

administration contractor.

- E. Upon receipt of a completed alarm registration application form and the alarm registration fee, the alarm administrator shall register the applicant by entering the required data into the Police and Fire Department's alarm administration system data base.
- F. Each alarm registration application must include the following information:
- (1) The name, complete address (including apartment/suite number) and telephone numbers of the person who will be the registration holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
 - (2) The classification of the alarm site as either residential (including apartment, condo, mobile home, etc.) or commercial;
 - (3) For each alarm system located at the alarm site, the classification of the alarm system (i.e., burglary, holdup, duress, panic alarms or other) and for each classification whether such alarm is audible or silent;
 - (4) Mailing address, if different from the address of the alarm site;
 - (5) Any dangerous or special conditions present at the alarm site such as dogs or other animals;
 - (6) Names and telephone numbers of at least two individuals who are able and have agreed to receive notification of an alarm system activation at any time; respond to the alarm site within 30 minutes at any time; and upon request can grant access to the alarm site and deactivate the alarm system if necessary;
 - (7) Type of business conducted at a commercial alarm site;
 - (8) Signed certification from the alarm user stating the following:
 - (a) The date of installation, conversion or takeover of the alarm system, whichever is applicable;
 - (b) The name, address and telephone number of the alarm installation company or companies performing the alarm system installation, conversion or takeover and of the alarm installation company responsible for providing repair service to the alarm system;
 - (c) The name, address and telephone number of the monitoring company if different from the alarm installation company;
 - (d) That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been delivered to the applicant by the alarm installation company; and
 - (e) That the alarm installation company has trained the applicant in the proper use of the alarm system, including instructions on how to avoid false alarms; and
 - (9) That the Police and Fire Department response may be influenced by factors, including, but not limited to, the availability of officers or fire-fighters, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.
- G. Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue a registration.

- H. An alarm registration cannot be transferred to another person or alarm site. An alarm user shall inform the alarm administrator of any change that alters any of the information listed on the alarm registration application within five business days of such change.
- I. All fines and fees owed by an applicant must be paid before an alarm registration may be issued or renewed.

§ 71-3.1. Alarm registration duration and renewal.

An alarm registration shall expire one year from the date of issuance, and must be renewed annually by submitting an updated application and a registration renewal fee to the alarm administrator. The alarm administrator shall notify each alarm user of the need to renew 30 days prior to the expiration of the registration. It is the responsibility of the alarm user to submit an application prior to the registration expiration date. Failure to renew will be classified as use of a nonregistered alarm system and penalties may be assessed in accordance with this chapter. A late fee of \$25 may be assessed if the renewal is more than 30 days late.

§ 71-4. Duties of the alarm user.

- A. An alarm user shall:
 - (1) Maintain the alarm site and the alarm system in a manner that will minimize or eliminate false alarms;
 - (2) Make every reasonable effort to have a responder arrive at the alarm system's location within 30 minutes after being requested by the law enforcement agency to attend to:
 - (a) Deactivate an alarm system;
 - (b) Provide access to the alarm site; and/or
 - (c) Provide alternative security for the alarm site.
 - (3) Not activate an emergency alarm condition for any reason other than an occurrence of an emergency event that the alarm system was intended to report.
- B. An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of the alarm site will sound for no longer than 10 minutes after being activated.
- C. An alarm user shall have an alarm installation company inspect the alarm system after two false alarms in a one-year period. The alarm administrator may waive a required inspection if it determines that a false alarm could not have been related to a defect or malfunction in the alarm system. After four false alarm within a one-year period, the alarm user must have an alarm installation company modify the alarm system to be more false-alarm-resistant or provide additional user training as appropriate.
- D. An alarm user shall not use automatic voice dialers.
- E. An alarm user shall maintain at each alarm site a set of written operating instructions for each alarm system.
- F. All alarm users shall agree with their alarm installation company and/or monitoring company to an acclimation period for the first seven days after installation of an alarm system during which time the

alarm installation company and/or monitoring company will have no obligation to and will not respond to any alarm signal from the alarm site and will not make an alarm dispatch request to law enforcement personnel, even if the alarm signal is the result of an actual alarm event.

§ 71-5. Duties of alarm installation companies and monitoring companies.

- A. An alarm installation company shall provide written and oral instructions to each of its alarm users in the proper use and operation of its alarm systems. Such instructions will specifically include all instructions necessary to turn the alarm system on and off and to avoid false alarms.
- B. Upon the effective date of this chapter, alarm installation companies shall not program alarm systems so that they are capable of sending One Plus Duress Alarms. Monitoring companies may continue to report One Plus Duress Alarms received from alarm systems programmed with One Plus Duress Alarms prior to enactment of this chapter. However, upon the effective date of this chapter, when a takeover or conversion occurs or if an alarm user requests an alarm system inspection or modification pursuant to § 71-4C of this chapter, an alarm installation company must remove the One Plus Duress Alarm capability from such alarm systems.
- C. Alarm installation companies shall not install a device to activate a holdup alarm, which is a single-action, nonrecessed button.
- D. Effective 90 days after enactment of this chapter, alarm installation companies shall, on new installations, use only alarm control panels which meet SIA Control Panel Standard CP-01.
- E. An alarm company shall not use automatic voice dialers.
- F. Upon completion of the installation of an alarm system, an alarm installation company employee shall review with the alarm user the Police and Fire Department's false alarm prevention checklist or an equivalent checklist approved by the alarm administrator.
- G. The monitoring company shall not provide an alarm notification to a burglar alarm signal, excluding panic, duress and holdup signals, during the first seven days following installation of an alarm system. The alarm administrator may grant an alarm user's request for an exemption from this waiting period based upon a determination that special circumstances substantiate the need for exemption.
- H. A monitoring company shall:
 - (1) Report alarm signals used by telephone numbers designated by the alarm administrator;
 - (2) Verify every alarm signal, except a duress or holdup alarm activation before providing an alarm notification to an alarm system signal;
 - (3) Communicate alarm notifications to the Police or Fire Department in a manner and form determined by the alarm administrator;
 - (4) Communicate cancellations to the Police or Fire Department in a manner and form determined by the alarm administrator;
 - (5) Ensure that all alarm users of alarm systems equipped with a duress, holdup or panic alarm are given adequate training as to the proper use of such alarms;
 - (6) Communicate any available information about the location of all alarm signals related to the alarm dispatch request (north, south, front, back, floor, etc.);

- (7) Communicate type of alarm activation (silent or audible, interior or perimeter);
 - (8) Provide an alarm user registration number when providing an alarm notification;
 - (9) After an alarm notification, promptly advise the Police or Fire Department if the monitoring company knows that the alarm user or the responder is enroute to the alarm site;
 - (10) Attempt to contact the alarm user or responder within 24 hours via mail, fax, telephone or other electronic means when an alarm dispatch request is made; and
 - (11) Upon the effective date of this chapter, monitoring companies must maintain for a period of at least one year from the date of the alarm dispatch request records relating to alarm notifications. Records must include the name, address and telephone number of the alarm user, the alarm system zone(s) activated, the time of alarm dispatch request and evidence of an attempt to verify. The alarm administrator may request copies of such records for individually named alarm users. If the request is made within 60 days of an alarm dispatch request, the monitoring company shall furnish requested records within three business days of receiving the request. If the records are requested between 60 days to one year after an alarm dispatch request, the monitoring company shall furnish the requested records within 30 days of receiving the request.
- I. An alarm installation company and/or monitoring company that purchases alarm system accounts from another person shall notify the alarm administrator of such purchase and provide such details as may be reasonably requested by the alarm administrator.

§ 71-5.1. License or licensing.

All alarm installation companies and monitoring companies shall maintain any and all licenses required by the State of New Jersey.

§ 71-6. Duties and authority of the alarm administrator.

- A. The alarm administrator shall:
- (1) Designate the manner, form and telephone numbers for the communication of alarm notifications; and
 - (2) Establish a procedure to accept cancellation of alarm notifications.
- B. The alarm administrator shall establish a procedure to record such information on alarm notifications necessary to permit the alarm administrator to maintain records, including but not limited to, the information listed below:
- (1) Identification of the registration number for the alarm site;
 - (2) Identification of the alarm site;
 - (3) Date and time alarm notification was received, including the name of the monitoring company and the monitoring operator name and number;
 - (4) Date and time of officer of fire-fighter's arrival at the alarm site;
 - (5) Alarm zone and zone description, if available;
 - (6) Name of alarm user's representative at the alarm site, if any;

- (7) Identification of the responsible alarm installation company or monitoring company; and
- (8) Cause of alarm signal, if known.
- C. The alarm administrator shall establish a procedure for notification to the alarm user of a false alarm. The notice shall include the following information:
 - (1) The date and time of the law enforcement officer or fire-fighter's response to the false alarm; and
 - (2) A statement urging the alarm user to ensure that the alarm system is properly operated, inspected and serviced in order to avoid false alarms and resulting fines.
- D. The alarm administrator may require a conference with an alarm user and the alarm installation company and/or monitoring company responsible for the repair or monitoring of the alarm system to review the circumstances of each false alarm.
- E. The alarm administrator may require an alarm user to remove a holdup alarm that is a single-action, nonrecessed button if a false holdup alarm has occurred.
- F. The alarm administrator will make a copy of this chapter and/or a chapter summary sheet available to the alarm user.

§ 71-7. Fines and fees for services.

- A. An alarm user shall be assessed a service fee for false alarms within a twelve-month period according to the following schedule:
 - (1) Schedule.

Number of False Alarms	Service Fee
1	Complimentary
2	\$50
3	\$100
4 or more	\$200

- (2) Late fee for false alarm invoices not paid within 30 days: \$25.
- B. In addition to the service fee set forth above, any person operating a nonregistered alarm system will be subject to an additional fee of \$100 for each false alarm. The alarm administrator may waive this additional fee for a nonregistered system if the alarm user submits an application for alarm registration within 10 days after notification of such violation.
- C. If cancellation occurs prior to law enforcement or Fire Department personnel arriving at the scene, this shall not be considered a false alarm, and no service fee will be assessed.
- D. The alarm installation company shall be assessed a fee of \$100 if the officer or fire-fighter responding to the false alarm determines that an on-site employee of the alarm installation company directly caused the false alarm, and the false alarm will not be assessed against the alarm user.
- E. The monitoring company shall be assessed a fee of \$100 for each failure to verify alarm system signals as specified in § 71-5H(2) of this chapter.

- F. The alarm installation company shall be assessed a fee of \$200 if the alarm administrator determines that an alarm installation company employee knowingly made a false statement concerning the inspection of an alarm site or the performance of an alarm system.

§ 71-8. Notice to alarm users of false alarms; nonpayment of fees and suspension of police response. [Amended 4-5-2011 by Ord. No. O-11-013]

- A. The alarm administrator shall notify the alarm user in writing after each false alarm. The notice shall include either a warning or the amount of the fee for the false alarm, the fact that police response may be suspended for nonpayment (excluding duress, robbery, holdup and panic alarms), and a statement of the appeals procedures available to the alarm user.
- B. The alarm administrator shall notify the alarm user in writing 30 days before an alarm response is suspended. If the alarm user is suspended from police response, they must pay all outstanding fees and an additional reinstatement fee of \$100 to begin receiving police response again.

§ 71-9. Appeals.

- A. If a fee or fine is assessed, the alarm administrator shall send a written notice of the assessment and a statement of the right to appeal to the affected applicant or alarm user and the alarm installation company and/or monitoring company.
- B. Any alarm user, alarm installation company or monitoring company may appeal the assessment of a fee or fine to the alarm administrator by setting forth in writing the reasons for the appeal within 15 business days after notification of the fee.
- C. Any alarm user, alarm installation company or monitoring company may appeal the decision of the alarm administrator to the Police or Fire Chief or his designee as follows:
- (1) The alarm user, alarm installation company or monitoring company shall file a written request for review. The request must be made within 20 business days after notification of the decision from the alarm administrator.
 - (2) The Chief or his designee shall conduct a hearing within 30 days of receipt of the request. The Chief or his designee shall render a decision based on the preponderance of the evidence presented at the hearing. The Chief or his designee shall render a decision affirming or reversing the decision of the alarm administrator within 15 days after the hearing is concluded.
- D. The filing of an appeal shall stay the action by the alarm administrator requiring payment of any fee or fine until the Chief or his designee has completed his review. If an appeal is not filed within the aforementioned twenty-business-day period, the action of the alarm administrator shall be final.
- E. The alarm administrator or Chief may adjust the number of false alarms assessed against an alarm user based on:
- (1) Evidence that a false alarm was caused by an act of God;
 - (2) Evidence that a false alarm was caused by action of the telephone company;
 - (3) Evidence that a false alarm was caused by a power outage lasting longer than four hours;
 - (4) Evidence that the alarm dispatch request was not a false alarm;
 - (5) Evidence that the law enforcement officer's or fire-fighter's response was not completed in a

timely fashion; and/or

- (6) In determining the number of false alarms, multiple alarms occurring in any twenty-four-hour period may be counted as one false alarm to allow the alarm user time to take corrective action unless the false alarms are directly caused by the alarm user.

- F. With respect to fees or fines assessed to an alarm installation company or monitoring company, the alarm administrator or Chief may take into consideration whether the company has engaged in a consistent pattern of violations.

§ 71-10. Enforcement and penalties.

Enforcement of this chapter may be by civil action as provided by law.

§ 71-11. Confidentiality.

In the interest of public safety, all information contained in and gathered through the alarm registration applications and applications for appeals shall be held in confidence by all employees or representatives of the Police or Fire Department and by any third-party administrator or employees of a third-party administrator with access to such information.

§ 71-12. Government immunity.

Alarm registration is not intended, nor shall it be construed, to create any contract, duty or obligation on the part of the Township of Montclair, either expressed or implied, to respond to any alarm. The Township shall not be liable for any losses or damages, including consequential damages, resulting from the Township's failure to respond to a notification and the Township expressly retains all governmental immunities provided by law. By applying for an alarm registration, an alarm user acknowledges that the Township's ability to respond to an alarm may be influenced by various factors such as the availability of officers or fire-fighters, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

§ 71-13. Severability.

The provisions of this chapter are severable. If a court determines that any word, phrase, clause, sentence, paragraph, subsection, section of other provision of this chapter is invalid, the remaining provisions of this chapter and the application of those provisions to other persons or circumstances are not affected by that decision.

Chapter 74**ALCOHOLIC BEVERAGES**

[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. 69 of the 1979 Code. Amendments noted where applicable.]

§ 74-1. License or other compliance required.

No person shall possess with intent to sell, distribute or transport any alcoholic beverages unless duly licensed therefor under, or otherwise in compliance with N.J.S.A. 33:1 et seq. and the amendments thereof and supplements thereto.

§ 74-2. Issuing authority for licenses.

The Township Council shall constitute the issuing authority for the granting of all licenses for the retail sale and distribution of alcoholic beverages within the Township pursuant to the authority of Title 33 of the Revised Statutes and the amendments thereof and supplements thereto.

§ 74-3. Club licenses prohibited.

No club licenses shall be issued or granted.

§ 74-4. Number of licenses permitted. [Amended 10-26-1982 by Ord. No. 82-42; 2-7-1984 by Ord. No. 84-5; 1-19-2016 by Ord. No. O-15-039]

The number of licenses shall be:

- A. Plenary retail consumption licenses: 13. **[Amended 8-7-2018 by Ord. No. O-18-036]**
- B. Plenary retail distribution licenses: 13.
- C. Hotel consumption license pursuant to and meeting the conditions of N.J.S.A. 33:1-12.20 for a hotel of at least 100 guest sleeping rooms: one.
- D. Nonprofit theater consumption license pursuant to and meeting the conditions of N.J.S.A. 33:1-19.8 for a nonprofit corporation with a premises with a seating capacity of 50 persons or more but less than 1,000 persons that is primarily used to conduct musical or theatrical performances or concerts pursuant to § 74-22: three. **[Added 10-11-2022 by Ord. No. O-22-22]**

§ 74-5. License fee to accompany applications.

All license fees shall be paid in full, in advance, at the time of making application.

§ 74-6. License fees. [Amended 9-9-2003 by Ord. No. 03-53; 4-19-2005 by Ord. No. 05-14]

The annual fees for licenses shall be:

- A. Plenary retail consumption license: \$2,500.
- B. Plenary retail distribution license: \$2,500.
- C. Hotel consumption license issued pursuant to § 74-4C: \$2,500. **[Added 12-19-2017 by Ord. No. O-17-039]**

O-17-043]

- D. Nonprofit theater consumption license issued pursuant to § 74-4D: \$2,500. **[Added 10-11-2022 by Ord. No. O-22-22]**

§ 74-7. License application.

Each applicant for a license shall:

- A. Execute the form of application prescribed by the Director of the State Division of Alcoholic Beverage Control.
- B. Comply with all the requirements of N.J.S.A. 33-1 et seq. and the amendments thereof and supplements thereto.
- C. Agree that during the term of the license all duly constituted officers of the Township may have entrance to the premises at any time of day or night for the purpose of inspecting them to determine their sanitary conditions and the lawfulness of all enterprises therein.
- D. Agree to be bound by and faithfully to adhere to and abide by the provisions of this chapter and all reasonable rules and regulations of the Police Department as presently or hereafter to be promulgated.

§ 74-8. Compliance with zoning requirements. [Amended 12-19-2017 by Ord. No. O-17-043]

No license shall be issued for any location which is not within a business, commercial or manufacturing zone under Chapter 347, Zoning, except at a location where a business or manufacturing use is being conducted as a valid nonconforming use. Nothing in this section shall be construed to eliminate the necessity of obtaining a variance from the Board of Adjustment if a nonconforming use is being enlarged by the issuance of the license or if there is any other violation of Chapter 347, Zoning, of the Code of the Township of Montclair, nor shall this section apply to the issuance of a one-day permit authorizing the sale of alcoholic beverages for consumption on a designated premises pursuant to the provisions of N.J.S.A. 33:1-74.

§ 74-9. Plenary retail consumption license requirements.

No plenary retail consumption license shall be issued unless the premises on which such licensed business is to be conducted contains at least 400 square feet of floor space. Such premises shall be kept in a sanitary condition, shall fully comply with all rules and regulations of the State and Township Boards of Health and shall be at all times brightly lighted.

§ 74-10. Permitted hours of sale. [Amended 11-10-1981 by Ord. No. 81-52; 10-17-1989 by Ord. No. 89-37; 3-14-2006 by Ord. No. 06-09]

- A. Consumption of alcoholic beverages shall be permitted on licensed premises during the following hours:
 - (1) On any weekday between the hours of 12:00 midnight of the preceding day and 1:30 a.m. and between the hours of 9:00 a.m. and 12:00 midnight.
 - (2) On any Sunday between the hours of 12:00 midnight of the preceding day and 1:30 a.m. and between the hours of 12:00 noon and 12:00 midnight.
 - (3) In addition to the foregoing hours, on New Year's Day from 12:00 midnight of the preceding

day to 4:00 a.m.

B. Retail sale of alcoholic beverages shall be permitted on licensed premises during the following hours:

- (1) On any weekday between the hours of 9:00 a.m. and 10:00 p.m. as provided in N.J.S.A. 33:1-1 et seq. and N.J.A.C. 13:2-38.1, except for the sale of wine and malt alcoholic beverages which shall be permitted during the hours set forth in § 74-10A(1) above.
- (2) On any Sunday between the hours of 1:00 p.m. and 8:00 p.m., except for the sale of wine and malt alcoholic beverages which shall be permitted during the hours set forth in § 74-10A(2) above.
- (3) If Christmas Day or New Year's Day falls on a Monday, the sale of any alcoholic beverage for off-premises consumption shall be permitted on the preceding Sunday from 12:00 noon to 8:00 p.m., except for the sale of wine and malt alcoholic beverages which shall be permitted during the hours set forth in § 74-10A(2) above.

§ 74-11. Closing of premises during certain hours; exceptions.

During the times when sales are prohibited by § 74-10, the entire licensed premises shall be closed. This requirement shall not apply to hotels, restaurants as defined in N.J.S.A. 33:1-1t or other establishments where the principal business is other than the sale of alcoholic beverages. All licensed premises where alcoholic beverages are kept for sale and display and which are open for any reason at the said prohibited times shall so arrange such beverages that during the times when sale thereof is herein prohibited, such beverages shall be and remain excluded from public view and from all access in a manner approved by the Police Department and the Building Department of the Township.

§ 74-12. Premises to be open to view.

The barroom and any other room in which alcoholic beverages are served or consumed and any room where such beverages are sold for consumption off the premises shall, at the closing hour and from thenceforth until the opening hour, as prescribed in § 74-10, be open to full view from the public street or public thoroughfare or any other thoroughfare open to the public. During such period of time a full view of the interior of such premises from the said public street or public thoroughfare shall not be obstructed by the use of nontransparent glass or of any shade, blind, shutter, screen, merchandise or any other article placed within or without the licensed premises.

§ 74-13. Employment permits.

- A. No licensee under this chapter shall employ in the conduct of his or her licensed business any person who shall not have first obtained an employment permit from the Chief of Police. No person shall permit or suffer himself or herself to be so employed without having first obtained such a permit from the Chief of Police.
- B. No employment permit shall be issued to any person who: **[Amended 12-19-2017 by Ord. No. O-17-043]**
 - (1) Requires a rehabilitation permit pursuant to N.J.S.A. 33:1-26 and the amendments thereof and supplements thereto, unless said person shall first have obtained a permit from the Director of the State Division of Alcoholic Beverage Control; or
 - (2) Is under the age of 18 years, unless said person shall first have obtained a permit from the

Director of the State Division of Alcoholic Beverage Control.

- C. Each applicant for an employment permit shall be photographed and fingerprinted, without charge, under the supervision of the Chief of Police, at such time and place as shall be designated by the said Chief. The fingerprints shall be marked "noncriminal" and shall be kept on file in the Police Department.
- D. The Chief of Police is hereby authorized to issue an employment permit to any person making such application therefor who is not disqualified under Subsection B hereof or is not otherwise disqualified from such employment. The employment permit shall state the name of the applicant, his or her age and date of birth, his or her height, color and any distinguishing marks or physical characteristics, and shall have attached thereto his or her photograph.
- E. Each employment permit shall be issued only for one calendar year, from January 1 to December 31, both inclusive, and shall expire at 12:00 midnight of December 31 of the year for which issued.

§ 74-14. Service to certain persons prohibited. [Amended 12-19-2017 by Ord. No. O-17-043]

No licensee under this chapter, his or her servant, agent or employee shall deliver or give away, or cause, permit or procure to be sold, delivered or given away, any alcoholic beverages to, or allow, suffer or permit the consumption of any alcoholic beverages by, or suffer in and upon the said licensed premises, the following:

- A. Any person under the age of 21 years.
- B. Any intoxicated person.

§ 74-15. Additional prohibition as to certain minors. [Amended 12-19-2017 by Ord. No. O-17-043]

- A. No person under the age of 21 years shall possess, carry, transport, distribute or consume any alcoholic beverage in or upon any street, highway, thoroughfare or other public place within the Township.
- B. No person shall cause, allow, permit or suffer any person under the age of 21 years to possess, carry, transport, distribute or consume any alcoholic beverage in or upon any street, highway, thoroughfare or other public place within the Township.

§ 74-16. Dancing prohibited without cabaret license.

No plenary retail consumption licensee shall permit dancing in any room where the sale of alcoholic beverages is permitted unless he or she shall first have secured a cabaret entertainment license therefor pursuant to §§ 78-3 and 78-4 of Chapter 78, Amusements.

§ 74-17. Gambling prohibited.⁴⁶

No gambling devices of any kind shall be maintained and no gambling shall be permitted within any premises on which is conducted the business of selling alcoholic beverages for consumption either on or off said premises.

46. Editor's Note: See also Ch. 166, Games of Chance, Art. II.

§ 74-18. Discrimination prohibited.

No licensee under this chapter shall discriminate against any person within said Township in contravention of N.J.S.A. 10:1-2 to 10:1-5, both inclusive, and the amendments thereof or supplements thereto.

§ 74-19. Suspension or revocation of licenses.

The Township Council may suspend or revoke any license issued under this chapter for any violation of any provision of this chapter. This provision shall be deemed in addition to and not in limitation of the power, authority and right now or hereafter vested and possessed by the Township Council to suspend or revoke any license issued by it.

§ 74-20. 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.

§ 74-21. Offer or service to underage persons. [Added 1-8-2008 by Ord. No. 07-61]

- A. Any person who purposely or knowingly offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages shall be guilty of violating this section.
- B. Any person who purposely or knowingly entices or encourages a person under the legal age for consuming alcoholic beverages to drink an alcoholic beverage shall be guilty of violating this section.
- C. Subsections A and B of this section shall not apply a) to a parent or guardian of the person under the legal age for consuming alcoholic beverages if the parent or guardian is of the legal age to consume alcoholic beverages, or b) to a religious observance, ceremony or rite. Subsections A and B shall also not apply to any person in his home who is of the legal age to consume alcoholic beverages who offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices that person to drink an alcoholic beverage in the presence of and with the permission of the parent or guardian of the person under the legal age for consuming alcoholic beverages if the parent or guardian is of the legal age to consume alcoholic beverages.
- D. Any person who makes real property owned, leased or managed by him available to, or leaves that property in the care of, another person with the purpose that alcoholic beverages will be made available for consumption by, or will be consumed by, persons who are under the legal age for consuming alcoholic beverages shall be guilty of violating this section. This Subsection D shall not apply if:
 - (1) The real property is licensed or required to be licensed by the Division of Alcoholic Beverage Control in accordance with the provisions of N.J.S.A. 33:1-1 et seq.;
 - (2) The person making the property available, or leaving it in the care of another person, is of the legal age to consume alcoholic beverages and is the parent or guardian of the person who consumes alcoholic beverages while under the legal age for consuming alcoholic beverages; or

- (3) The alcoholic beverages are consumed by a person under the legal age for consuming alcoholic beverages during a religious observance, ceremony or rite.
- E. Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county or 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.

§ 74-22. Issuance of retail consumption license to certain nonprofit corporations. [Added 10-11-2022 by Ord. No. O-22-22]

Pursuant to N.J.S.A. 33:1-19.8:

- A. It shall be lawful for the governing board or body of any municipality, upon the approval of the Director of the Division of Alcoholic Beverage Control, to issue a plenary retail consumption license to a nonprofit corporation exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code that is incorporated on the effective date of this section, which regularly conducts musical or theatrical performances or concerts for which admission is charged. A license issued pursuant to this section shall be used in connection with premises with a seating capacity of 50 persons or more but less than 1,000 persons that is primarily used to conduct musical or theatrical performances or concerts.
- B. The license shall authorize the sale of alcoholic beverages by the nonprofit corporation or its restaurant operator who has been approved pursuant to procedures established by the Division of Alcoholic Beverage Control for consumption on the licensed premises:
 - (1) During the two hours immediately preceding performances;
 - (2) During performances, including intermission; and
 - (3) For not more than 15 performances in a calendar year, during the two hours immediately following performances.
- C. Licensees shall be required to provide the Township Clerk and Township Police Department with at least 10 days' advance notice of the 15 performances, including the dates and times of the performance(s), when there will be the sale of alcoholic beverages two hours immediately following performances.
- D. For the purposes of this section, "licensed premises" shall include the premises where the musical or theatrical performance or concert is held and any adjacent premises owned and operated by the licensee.
- E. A license issued under the provisions of this section shall not be counted in determining the number of licenses under P.L. 1947, c. 94 (N.J.S.A. 33:1-12.13), or under P.L. 1968, c. 277 (N.J.S.A. 40:48-2.40 et seq.).
- F. For purposes of this section, "performance" shall be defined as one showing of a theatrical performance, movie, musical, or concert.
- G. Licenses issued under this section are not transferable.

AMUSEMENTS

Chapter 78

AMUSEMENTS

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 166.

Skateboards — See Ch. 285.

ARTICLE I

Amusement Business Licensing

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. III of Ch. 72 of the 1979 Code]

§ 78-1. Definitions.

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

AMUSEMENT BUSINESS or AMUSEMENT BUSINESSES — Includes, severally as well as collectively, the following:

- A. Circuses, concerts, exhibitions, merry-go-rounds, motion-picture exhibitions, plays, skating rinks, street amusements or street exhibitions, theatrical performances and traveling and other shows.
- B. The places or premises in which the different kinds of amusement businesses enumerated in Subsection A hereof are conducted.
- C. Cabaret entertainments and entertainments in any places where food and drink are served.
- D. Bowling alleys.
- E. Pool and billiard rooms.
- F. Dance halls.
- G. Places wherein miniature car racing or slot car racing is carried on, slot track centers and model CSR raceways.

§ 78-2. Purpose.

The purpose of this article is to license and regulate the amusement businesses as defined in § 78-1.

§ 78-3. License required.

It shall not be lawful for any person to conduct, carry on, operate, exhibit or promote any amusement business defined in § 78-1 without first having obtained a license so to do.

§ 78-4. Application for license.

No license shall be issued under this article for any amusement business unless the applicant files with the Municipal Clerk a written application setting forth the following:

- A. In the case of circuses, concerts, exhibitions, merry-go-rounds, motion-picture exhibitions, plays, skating rinks, street amusements or street exhibitions, theatrical performances, traveling and other shows, miniature car racing, slot car racing, slot track centers and model CSR raceways:
 - (1) The name and address of the applicant.
 - (2) The nature of the business to be conducted and carried on.
 - (3) The places, premises or locations at which the business is to be conducted and carried on.
 - (4) A description of the building, if any, or of the nature of the structure or conveyance in or upon

which the business will be conducted or carried on.

- (5) If a building is to be used, a detailed sketch of the premises and a statement that the building complies with all requirements of the Building Code, Health Code, Zoning Ordinance and all other ordinances and laws applicable thereto.⁴⁷
 - (6) If the said business is to be conducted in a conveyance or vehicle of any sort, a showing that it is in a good mechanical and safe working condition, and in addition thereto, satisfactory evidence that the applicant carries public liability insurance covering injuries or damage to any person arising out of or causally related to the operation of the business or the entertainment features of the business, of not less than \$25,000.
 - (7) An agreement to abide by all the requirements of this article and of any amendments thereof and supplements thereto.
- B. In the case of cabaret entertainments and entertainments in any place where food and drink are served, the application shall set forth that a certificate of occupancy has been filed with the Municipal Clerk indicating the number of exits and entrances, the seating capacity, the precautions against fire, the building stresses and such other conditions or requirements as may be prescribed by the Township Council in order that it may be determined whether the granting of a license will constitute a hazard to the health, morals and safety of the public.
- C. In the case of pool and billiard rooms and bowling alleys:
- (1) The number of pool or billiard tables or bowling alleys for which a license is requested.
 - (2) The address of the place wherein said pool or billiard tables are to be kept or the bowling alleys are to be located.
 - (3) The name of the person owning or operating said pool or billiard tables or bowling alleys.
 - (4) An agreement to close the room or store in which pool and billiard tables are operated during the following hours: from 1:00 a.m. each night until 7:00 a.m. the following morning, except on Sunday, when said rooms shall remain closed until 1:00 p.m. the same day.
 - (5) An agreement to close the rooms in which bowling alleys are operated during the following hours: from 1:30 a.m. each night until 7:00 a.m. the following morning, except on Sunday, when said rooms shall remain closed until 9:00 a.m. the same day.
- D. In the case of dance halls:
- (1) The location at which the dance hall is to be operated.
 - (2) The names and addresses of the owners of the premises.
 - (3) The names and addresses of the operators of the dance hall, and where the operator is a corporation, the names and addresses of all officers, directors and stockholders of said corporation.
 - (4) A sketch of the premises showing the portion or portions of the premises that will be used as a dance hall and all entrances thereto and exits therefrom.

47. Editor's Note: See Ch. 121, Construction Codes, Uniform; Ch. 186, Health Standards; and Ch. 347, Zoning.

- (5) The maximum number of persons proposed to be admitted.
- (6) An agreement to close and to refrain from operating the dance hall between the hours of 1:00 a.m. and 8:00 p.m. on weekdays, and to close and refrain from operating the dance hall all day Sunday (between the hours of 12:01 a.m. and 12:00 midnight on Sunday).
- E. In the case of miniature car racing, slot car racing, slot track centers and model CSR raceways, the application shall also contain an agreement that the premises shall be closed and not be operated between the hours of 1:00 a.m. and 7:00 a.m. on weekdays and between 12:01 a.m. Sunday and 7:00 a.m. the succeeding Monday.

§ 78-5. Additional requirements for motion-picture licenses.

Every license issued pursuant to this article for a motion-picture theater or exhibition shall be subject to the following additional terms and conditions, and every applicant for such license in accepting the license agrees to abide by and comply with the said terms and conditions:

- A. The building in which the exhibition is conducted shall in all respects comply with the requirements of laws of the state and of all ordinances of the Township respecting such building.
- B. No person under the age of 14 years shall be admitted or allowed or permitted to enter the premises for the purpose of viewing a motion-picture exhibition unless accompanied by his or her parent or legal guardian or person standing in loco parentis.
- C. The schedule of fees for admission shall be uniform.
- D. The licensee shall be responsible for any disorder.
- E. Any police officer, fire fighter or member of the Township Council may enter the licensed place or premises at any time for the purpose of inspection and to enforce obedience to the laws of the state and the ordinances of the Township.
- F. The Building Inspector shall have access to the licensed place or premises at all times.
- G. Any motion picture that is lewd, obscene or indecent shall not be exhibited.

§ 78-6. Issuance of license.

Licenses shall be issued by the Municipal Clerk upon the conditions prescribed in this article.

§ 78-7. Approval by Chief of Police and Manager.

- A. No license shall be issued by the Municipal Clerk without the approval of the Chief of Police and the Township Manager and unless the license fee prescribed in § 78-38 shall have been paid. **[Amended 5-23-2000 by Ord. No. 00-19]**
- B. Licensees; location of premises.
 - (1) No license for a pool and billiard room or for a bowling alley shall be issued to a natural person who is under legal age or who has been convicted of a crime or crimes, and no license for a pool and billiard room or for a bowling alley shall be issued to a corporation where any stockholder, officer or member of the board of directors is under 21 or has been convicted of a crime.
 - (2) No application for a pool and billiard room or for a bowling alley shall be approved where the

premises at which it is proposed to carry on said amusement business is situated in any residential zone or in any neighborhood business district. For the purposes of this section, a "neighborhood business district" is defined as any area within the Township of Montclair not exceeding 12 acres of contiguous business office and professional office zone, commercial zone and manufacturing zone as defined and delineated by the terms and provisions of Chapter 347, Zoning, of the Code of the Township of Montclair.

§ 78-8. Duration of license.

Every license issued pursuant to this article shall remain in force and be valid only for the period of time therein expressed.

§ 78-9. Transfer of license prohibited.

Each license shall apply only to the person to whom granted. No license shall be transferable or assignable.

§ 78-10. Display of license.

The person to whom a license is granted shall exhibit such license in a public place within the premises where the licensed business is conducted.

§ 78-11. License fees. [Amended 12-21-1982 by Ord. No. 82-50; 3-31-1987 by Ord. No. 87-10; 5-23-2000 by Ord. No. 00-19]

Fees for licenses issued under this article, which shall be paid upon the filing of the license application, shall be as follows:

Type of License	Fee
Bowling alleys, per year for each bowling alley	\$25
Cabaret entertainments, per year	\$300
Circuses, per day	\$150
Concerts, per day	\$5
Dance halls, per year	\$300
Entertainments in any place where food and drink are served, per year	\$300
Exhibitions, per day	\$5
Merry-go-rounds, per year	\$50
Miniature car racing, slot car racing, slot track centers and model CSR raceways	
For each track assembly containing 4 or fewer slot tracks, per year	\$25
For each track assembly containing more than 4 slot tracks, per year	\$35
Motion-picture theaters or exhibitions [Amended 7-7-2009 by Ord. No. O-032-09]	
For each theater or exhibition, per year	\$500

Type of License	Fee
For each additional theater or exhibition at the same address or within the same building, per year	\$350
Plays, per day	\$5
Pool and billiard rooms, per year, for each pool or billiard table	\$10
Skating rinks, per year	\$250
Street amusements or street exhibitions, per year	\$50
Theatrical performances, per year	\$250
Traveling and other shows, per day	\$100

§ 78-12. Licenses for nonprofit businesses.

- A. In the case of bowling alleys and pool and billiard rooms conducted for nonprofit purposes, and in the case of concerts, exhibitions and plays conducted for charitable or local nonprofit purposes, no fee shall be charged for a license.
- B. The Township Manager may, in his or her discretion, upon application, authorize the Municipal Clerk to issue a license for any amusement business subject to this article without the payment of the license fee prescribed in § 78-11 if the whole net proceeds of the activity are to be devoted to a local organization exclusively engaged in charitable or benevolent activities.

§ 78-13. Sunday motion pictures.

Licenses for the exhibition of motion pictures shall include the right to conduct motion-picture exhibitions on the licensed premises on Sunday after 1:00 p.m.

§ 78-14. Smoking in theaters prohibited.

During the hours in which motion pictures or theatrical performances are being conducted, no smoking shall be permitted in the orchestra, loge or balcony of the theater building or premises.

§ 78-15. Revocation of license; hearing.

Any license issued under this article may be revoked by the Township Manager for violation of the terms of the license, violation of any ordinance of the Township or of any state or federal statute, or for making false statements in the application for a license. The licensee shall be granted a hearing by the Township Manager upon request of the licensee.

§ 78-16. 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 article 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.

ARTICLE II

Children's Amusement Ride Devices

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 72 of the 1979 Code]

§ 78-17. Definitions.

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

DEVICE or DEVICES — Any electrically operated device or devices intended to be mounted or ridden by children for their amusement, such device being sometimes known and designated as "kiddie ride," the installation or regulation of which is not governed by Article I of this chapter.

§ 78-18. License required.

No person shall install, maintain or operate, or permit the installation, maintenance or operation of, any device on any premises, public or private, within the Township without first having obtained a license for the installation and maintenance or operation of each such device.

§ 78-19. License application.

Application for a license under this article shall be made in writing to the Municipal Clerk. The application shall:

- A. Be signed by the person proposing to operate the device described in said application.
- B. State the name and post office address of the owner of the device, of the operator of the device and of the owner or occupant of the premises upon which the device is proposed to be installed, maintained and operated.
- C. Contain a description of the type and nature of the device and a certification that it complies with all of the requirements of § 78-23.
- D. Be accompanied by satisfactory written evidence that the applicant carries public liability insurance in an insurance company authorized to do business in the State of New Jersey, insuring against liability for personal injuries or damages suffered by any person resulting from the installation, maintenance and operation of the device referred to in the application and in an amount of not less than \$25,000.
- E. Be accompanied by payment of the license fee provided in § 78-22.

§ 78-20. Issuance of license; inspection of device.

Upon receipt of an application complying with the provisions of § 78-19, the Municipal Clerk shall issue to the applicant a license to install and, upon approval of the Chief of Police as hereinafter specified, to operate at the location described in the application, the device described therein. Upon receipt of such application, the Municipal Clerk shall immediately forward a copy of the application to the Chief of Police. Upon the installation of the device referred to in said application, the licensee shall immediately notify the said Chief of Police, who shall cause an inspection to be made to determine whether the device complies with the requirements of § 78-23 and that there are no electrical or mechanical hazards in the operation of such device. No such device shall be operated until the Chief of Police shall certify in writing to the licensee that said device complies with the requirements of § 78-23.

§ 78-21. Term of license.

Licenses to operate a device under this article shall run for one year from the date of their issuance.

§ 78-22. License fee. [Amended 3-31-1987 by Ord. No. 87-10]

The fee for the issuance of a license issued pursuant to this article shall be \$40.

§ 78-23. Safety specifications.

All devices installed, maintained and operated pursuant to a license issued under this article shall comply with the following requirements:

- A. Branch circuit wiring to plug receptacle shall be three No. 12 gauge conductors, one of which shall be connected to a cold-water pipe.
- B. Both plug receptacle and plug shall be polarized.
- C. The flexible cord from the device to the receptacle shall be three-conductor, No. 14 gauge of heavy-duty type, equipped with cord grip fittings, and such cord must not be of undue length and shall be connected to the device by means of a cord connector.
- D. Each device shall be fitted with a ground conductor of No. 14 gauge, grounding all metal parts of the device.
- E. All internal wiring of the device shall be No. 16 gauge.
- F. All wiring for lights on the device shall be installed in a metallic raceway or raceways.
- G. Bushings shall be provided for coin box feed.
- H. All wiring shall be suitably protected from mechanical injury.
- I. Cord connectors shall be used on all boxes on the device.
- J. On and off switches shall be fitted with approved metal bases.
- K. Open-type cleat sockets shall not be permitted.
- L. All lights on the device shall have fiber plates.
- M. Any amplifier equipment shall be installed in a metal box.
- N. All controls, contactors, transformers and connection blocks on the device shall be installed in metal boxes.
- O. All motors exceeding six amperes shall be installed on separate circuits.
- P. All microswitches shall be installed in metal boxes.
- Q. All exposed, dead or unused wires and fittings must be removed.

§ 78-24. Revocation of license; hearing.

Any license issued under this article may be revoked by the Chief of Police for the violation of or noncompliance with any provision of this article or by reason of the existence of any hazardous condition

in the maintenance or operation of the licensed device. Such revocation shall be by written notice delivered to the licensee or the agent of the licensee in charge of the device. The notice of revocation shall contain a statement of the violation, noncompliance or hazards found by the Chief of Police to exist. The licensee shall be entitled to a hearing by the Chief respecting the existence of the violation, noncompliance or hazard upon written request made to the Chief within 10 days following the revocation of the license.

§ 78-25. 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 article 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.

ARTICLE III

Automatic Amusement Games and Arcades

[Adopted by the Council of the Township of Montclair 5-10-1983 by Ord. No. 83-20 (Art. I of Ch. 72 of the 1979 Code)]

§ 78-26. Purpose.

This article is enacted for the purpose of regulation and control of automatic amusement games of the type defined in § 78-27.

§ 78-27. Definitions.

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

ARCADE — Any establishment, location or premises containing four or more automatic amusement games which are offered for the use of the public.

AUTOMATIC AMUSEMENT GAMES — All automatic amusement games of the type commonly known and designated as "bagatelle," "Skee-Ball," baseball," "golf," "pin amusement games," "video games" or other similar machines or devices, operated, maintained or used in any public or quasi-public place or in any building, store or other place wherein the public is invited or may enter and particularly, but not by way of limitation, all coin- or coin-substitute- operated automatic amusement devices of the foregoing types, operated, maintained or used as aforesaid.

§ 78-28. Amusement game license required.

The use and operation of automatic amusement games shall be licensed in the manner set forth in this article. No automatic amusement game shall be placed, operated or maintained within the Township in any premises described in § 78-27 until a license for such purpose has been obtained.

§ 78-29. Separate application for each device.

A separate application for each machine or device shall be filed on a form to be furnished by the Municipal Clerk. The form shall show the name of the applicant and post office address. The application shall be accompanied by the license fee required by § 78-32. The application shall be verified by affidavit of the applicant if an individual, and if a corporation, then by an officer thereof authorized to make such application. Such authorization shall be part of the application.

§ 78-30. Issuance of license.

Licenses shall be issued by the Municipal Clerk.

§ 78-31. Duration of license.

Each license shall expire on the first day of October next following its issuance.

§ 78-32. Amusement game license fee. [Amended 6-18-1985 by Ord. No. 85-25; 10-29-1991 by Ord. No. 91-51; 7-7-2009 by Ord. No. O-032-09]

The license fee for the issuance of each license, payment of which shall accompany the application, shall be \$100 for the first device licensed at a particular premise and \$50 per device for each additional device located at the same premises. When a license is issued after April 1 in any year, the applicant shall be

required to pay 1/2 of said fee. In such case, the license shall expire as provided in § 78-31.

§ 78-33. License in name of proprietor; display of license on device.

- A. The license shall be issued to and in the name of the proprietor of the premises wherein the device or machine is to be installed.
- B. Each license shall be affixed to the machine or device for which it is issued so that the license shall be easily and quickly identified. The license shall show on its face the name and post office address of the licensee, the amount of the fee paid and a brief statement that the machine or device to which the same is affixed is licensed for operation and use by the Township.

§ 78-34. Number of devices in one location.

Not more than three machines or devices of any of the types described in, § 78-27 shall be permitted to be used or operated in any one place, location or premises unless an arcade license has been obtained as hereafter provided.

§ 78-35. Seizure of devices; right of entry.

Any machine or device not having affixed thereto the license therefor may be taken into custody by the Police Department of the Township and disposed of. For the purpose of determining whether said machines and devices are so licensed, the Police Department shall have the right of entry into premises of a public or quasi-public character where such machines or devices are located.

§ 78-36. Gambling and prizes prohibited.⁴⁸

Any licensee who shall offer to pay any reward, gift, prize or merchandise to any person using or operating any such machine or device, or who shall use or permit to be used any of the machines or devices so licensed for the purpose of gambling, shall be guilty of a violation of this article.

§ 78-37. Transfer of amusement game license.

The holder of an automatic amusement game license may, upon written application to the Municipal Clerk, transfer the license within the period for which it is issued to another like machine operated in the same premises and from one premises to another. The license shall not be transferable from one person to another.

§ 78-38. Arcade license required.

- A. No person shall install, maintain or operate an arcade as herein defined without first having obtained a license for the premises where the arcade will be located. This license shall be in addition to the licenses required for the individual amusement games and devices located within the arcade and shall be in the name of the proprietor of the arcade premises.
- B. An arcade license shall not be issued at any location in a building which has residential rooms or apartments on the floors immediately above or below the arcade site, unless such residential room or apartment has been fully soundproofed so that arcade noise cannot be heard. **[Amended 6-18-1985 by Ord. No. 85-25]**

48. Editor's Note: See also Ch. 166, Games of Chance, Art. II.

§ 78-39. Applications for arcade licenses.

The application for an arcade license shall be filed on a form to be furnished by the Municipal Clerk. The form shall show the name of the applicant, the exact location and interior dimensions of the proposed licensed area and the names and address of all persons having an ownership interest of more than 10% of the business.

§ 78-40. Arcade license fee. [Amended 10-29-1991 by Ord. No. 91-51; 7-7-2009 by Ord. No. O-032-09]

The fee for the issuance of the arcade license shall be \$100 per year. Each license shall expire on the first day of October next following its issuance. When a license is issued after April 1 in any year, the applicant shall be required to pay 1/2 of said fee.

§ 78-41. Arcade license restrictions.

Arcade licenses shall be issued, subject to the following restrictions:

- A. The arcade will not be open to the public any longer than the following hours: **[Amended 6-18-1985 by Ord. No. 85-25]**
 - (1) Sunday through Thursday: 11:00 a.m. to 9:00 p.m. However, if the public schools in the Township are closed the following day the arcade may be open from 11:00 a.m. to 11:00 p.m.
 - (2) Friday and Saturday: 11:00 a.m. to 12:00 a.m.
- B. A security guard will be provided at the arcade from 7:00 p.m. until closing Monday through Friday and during all of the hours of operation on Saturday and Sunday.
- C. A suitable place for the parking of bicycles will be provided which shall not be on the public street or sidewalk and is large enough to accommodate at least two bicycles for each amusement game or device in the arcade.
- D. No more than one machine may be installed for each 100 square feet of the licensed premises.
- E. No alcoholic beverages will be permitted on the arcade premises.⁴⁹
- F. No persons will be permitted to remain in the arcade unless they are operating an amusement game or device or are waiting to operate a game or device.
- G. Children under the age of 16 years may not enter the arcade during normal school hours unless they are accompanied by a parent or guardian.

§ 78-42. Revocation of arcade license.

An arcade license may be revoked if, after issuance, the holder thereof violates any of the restrictions contained in § 78-41 or any other provisions of this article.

§ 78-43. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No.

49. Editor's Note: See also Ch. 74, Alcoholic Beverages.

07-17]

Any person who violates any provision of this article 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.

ANIMALS

Chapter 82

ANIMALS

[HISTORY: Adopted by the Board of Commissioners of the Town of Montclair (Arts. I through IV), now Township Council of the Township of Montclair (all subsequent articles), as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Dogs**[Adopted 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 76 of the 1979 Code]****§ 82-1. Definitions.**

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

DOG — Any member of the species *Canis familiaris*. **[Amended 12-20-2022 by Ord. No. O-22-26]**

DOG OF LICENSING AGE — Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

KENNEL — Any establishment wherein or whereon the business of boarding dogs is carried on. **[Amended 12-20-2022 by Ord. No. O-22-26]**

OWNER (when applied to the proprietorship of a dog) — Includes every person having a right of property in such dog and every person who has such dog in his or her keeping.⁵⁰

§ 82-2. Annual license and registration tag required.

- A. Any person who shall own, keep or harbor a dog of licensing age in the Township shall annually apply for and procure from the Health Department a license and official metal registration tag for each such dog so owned, kept or harbored and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto. **[Amended 9-10-2013 by Ord. No. O-13-46]**
- B. Current licenses and registration tags issued by any other municipality of this state shall be accepted by the Township as evidence of compliance with Subsection A of this section and § 82-3.

§ 82-3. Fees; expiration or loss of license. [Amended 5-12-1981 by Ord. No. 81-23; 9-29-1981 by Ord. No. 81-49; 11-29-1983 by Ord. No. 83-47]

- A. The person applying for the license and registration tag or for an annual renewal thereof shall pay to the Health Department a fee of \$12 (spayed/neutered), \$15 (unspayed/unneutered) for each dog license. Persons who fail to obtain a license as required within the time period specified in this section (by March 1) will be subject to a delinquent fee of \$10. **[Amended 10-17-1989 by Ord. No. 89-36; 12-8-1992 by Ord. No. 92-55; 9-10-2013 by Ord. No. O-13-46]**
- B. In addition to the above municipal fee, each person, at the time of application for license and registration, shall pay any and all additional surcharges required by the New Jersey State Department of Health.
- C. Loss of license. If a license has been misplaced or lost, the Health Department may issue a duplicate license and/or registration sleeve for that particular dog at a fee of \$1. **[Added 9-10-2013 by Ord. No. O-13-46]**

§ 82-4. Certain dogs exempt from fee. [Amended 5-23-2000 by Ord. No. 00-19]

Service dogs assisting the handicapped and hearing dogs assisting the hearing impaired shall be licensed and registered as provided in this article; provided, however, that the owner or keeper of such dog shall not

50. Editor's Note: The former definition of "pet shop," which immediately followed this definition, was repealed 12-20-2022 by Ord. No. O-22-26.

be required to pay any fee therefor.

§ 82-5. License forms and tags.

License forms and uniform official registration tags designed by the State Department of Health shall be furnished by the Township, shall be numbered serially and shall bear the year of issuance and the name of the Township.

§ 82-6. Newly acquired dogs; dogs attaining licensing age.

The owner of any newly acquired dog of licensing age or of any dog which attains licensing age shall make application for license and registration tag for such dog within 10 days after such acquisition or age attainment.

§ 82-7. Application for license.

- A. The application shall state the breed, sex, age, color and markings of the dog for which license and registration are sought and whether it is of a long- or short-haired variety; also the name, street and post office address of the owner and the person who shall keep or harbor such dog.
- B. The information on said application and the registration number issued for the dog shall be preserved for a period of three years by the Municipal Clerk. In addition, he or she shall forward to the State Department of Health each month, on forms furnished by said Department, an accurate account of registration numbers issued or otherwise disposed of. Registration numbers shall be issued in the order of the applications.

§ 82-8. Dogs brought into Township.

- A. Any person who shall bring or cause to be brought into the Township any dog licensed in another state for the current year and bearing a registration tag and shall keep or permit the same to be kept within the Township for a period of more than 90 days shall immediately apply for a license and registration tag for each such dog, unless such dog is licensed under § 82-10.
- B. Any person who shall bring or cause to be brought into the Township any unlicensed dog and shall keep or permit the same to be kept within the Township for a period of more than 10 days shall immediately apply for a license and registration tag for each such dog, unless such dog is licensed under § 82-10.

§ 82-9. Removal of tag.

No person, except an officer in the performance of his or her duties, shall remove a registration tag from the collar of any dog without the consent of the owner, nor shall any person attach a registration tag to a dog for which it was not issued.

§ 82-10. Kennel license. [Amended 12-20-2022 by Ord. No. O-22-26]

- A. Any person who keeps or operates or proposes to establish a kennel shall apply to the Municipal Clerk for a license entitling him or her to keep or operate such establishment.
- B. The application shall describe the premises where the establishment is located or is proposed to be located and the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the Health Officer of the Township, showing compliance with the local and state

rules and regulations governing location of and sanitation at such establishments.

- C. Any license issued for a kennel shall state the purpose for which the establishment is maintained. Such license shall expire on the last day of January of each year and shall be subject to revocation by the Township on recommendation of the State Department of Health or of the Township Department of Health for failure to comply with the rules and regulations of the State Department or of the Township Department of Health governing them. No license shall be revoked unless the owner has been afforded a hearing by the State Department or by the Health Officer of the Township.
- D. No person holding such license shall be required to secure individual licenses for dogs owned by him or her and kept at such establishment. Such license shall not be transferable to another owner or different premises.

§ 82-11. Fees for kennels. [Amended 12-20-2022 by Ord. No. O-22-26]

The annual license fee for a kennel providing accommodations for 10 or fewer dogs shall be \$10, and for more than 10 dogs, \$25.

§ 82-12. Control of dogs by kennels. [Amended 12-20-2022 by Ord. No. O-22-26]

No dog kept in a kennel shall be permitted off such premises except on a leash or in a crate or under other safe control.

§ 82-13. Dogs at large prohibited.

No person owning or having the control, custody or possession of a dog shall permit or suffer such dog to run at large or to go or be upon the public streets, sidewalks or other public places within the Township unless said dog shall be on a leash and in the custody of some person or persons capable of controlling such dog.

§ 82-14. Annual dog canvass; report.

The Chief of Police or any person appointed for the purpose by the Township Council of the Township shall, promptly after February 1 of each year, cause a canvass to be made of all dogs owned, kept or harbored within the limits of the Township, and shall report, on or before May 1 of each year, to the Municipal Clerk, to the Department of Health of the Township and to the State Department of Health the result thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring such dogs, the number of licensed dogs owned, kept or harbored, together with the registration numbers of each of said dogs, and the number of unlicensed dogs owned, kept or harbored by each of said persons, together with a complete description of each of said unlicensed dogs.

§ 82-15. Impounding of dogs; notice; disposition.

- A. The Animal Warden of the Township shall take into custody and impound or cause to be taken and impounded and thereafter destroyed or disposed of, as provided in this section and in accordance with P.L. 1941, c. 151, Section 16 (N.J.S.A. 4:19-15.16), and the amendments thereof and supplements thereto:
 - (1) Any dog off the premises of the owner or of the person keeping or harboring said dog, which said Animal Warden or his or her agent has reason to believe is a stray dog; provided, however, that any dog handled on a leash shall not be considered a stray dog.

- (2) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on the collar.
 - (3) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog.
- B. If any dog so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or person keeping or harboring said dog is known, the Animal Warden shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said dog, if known, a notice in writing stating that the dog has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after service of the notice. A notice under this section may be served either by delivering it to the person on whom it is to be served or by leaving it at the person's usual or last known place of abode or at the address given on the collar, or by forwarding it by mail in a prepaid letter addressed to that person at his or her usual or last known place of abode or to the address given on the collar or to the address set forth on the application for the license.
- C. When any dog so seized has been detained for seven days after notice, when notice can be given as above set forth, or has been detained for seven days after seizure when no notice has been given, and if the owner or person keeping or harboring said dog has not claimed said dog and paid all expenses incurred by reason of its detention, including maintenance not exceeding \$1 per day and a fee of \$1 to the Animal Warden for expense of seizure, and further, if the dog be unlicensed at the time of the seizure and the owner or person keeping or harboring said dog has not produced a license and registration tag for said dog, the Animal Warden may cause the dog to be destroyed in a manner causing as little pain as possible.

§ 82-16. Pursuit; entry on premises.

The Animal Warden is authorized to go upon any premises to seize for impounding any dog or dogs which he or she or she may lawfully seize and impound, when he or she is in immediate pursuit of such dog or dogs, except upon the premises of the owner of the dog if such owner is present and forbids the same.

§ 82-17. Interference with authorized persons.

No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this article.

§ 82-18. Removal of dog feces. [Added 5-12-1981 by Ord. No. 81-24]

No person owning, harboring, keeping or in charge of any dog shall permit, cause or suffer such dog to soil, defile or defecate on any common thoroughfare, sidewalk, street, passageway, bypath, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of said property. The foregoing restriction shall not apply to that portion of the street lying between the curblines, or the sides of the street bed if there are no curblines, provided that:

- A. The person with and in charge of such dog shall immediately remove all feces deposited by such dog by any sanitary means approved by the Township Health Department.
- B. The feces removed from the aforementioned designated area shall be disposed of by the person owning, harboring, keeping or in charge of such dog in a sanitary manner approved by the Township Health Department.

§ 82-19. Violations and penalties.

- A. Any person who violates or fails or refuses to comply with § 82-2, 82-6, 82-8, 82-9, 82-10, 82-12 or 82-17 or with the rules and regulations promulgated by the State Department of Health governing the sanitary conduct and operation of kennels, to preserve sanitation therein and to prevent the spread of rabies and other diseases of dogs within and from such establishments shall be liable to a penalty of not less than \$5 nor more than \$50 for each offense, to be recovered by and in the name of the Director of Health of the State of New Jersey or by and in the name of the Township, as the case may be, except that for the first offense in case of violations of §§ 82-2, 82-6 and 82-8, the penalty shall not be less than \$1 nor more than \$50, to be recovered in the same manner. A person who refuses or neglects to pay forthwith the amount of a judgment rendered against him or her and the costs and charges incident thereto may be committed by the Judge to the county jail for a period not exceeding 10 days in the case of the first conviction, and in the case of a second, subsequent or continuing violation, for a term not exceeding 30 days. **[Amended 12-20-2022 by Ord. No. O-22-26]**
- B. Any person who violates any provision of § 82-13 or 82-18 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. **[Amended 5-12-1981 by Ord. No. 81-24; 11-29-1983 by Ord. No. 83-47; 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17]**

ARTICLE II

Wild or Nondomestic Animals

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 76 of the 1979 Code]

§ 82-20. Keeping or harboring prohibited.

No person shall keep or harbor any wild animal or any nondomestic animal within the Township.

§ 82-21. 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 article 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.

ARTICLE III

Trapping of Birds or Animals

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. III of Ch. 76 of the 1979 Code]

§ 82-22. Permit required; exception.

No person shall take or attempt to take animals of any type, including birds or fowl, by means of a steel or other trap, or set a steel or other trap for any animal, including birds or fowl, in or upon any property within the Township of Montclair, public or private, without first having obtained the written permission of the owner or occupant of said premises; provided, however, that nothing contained herein shall prohibit the owner or occupant from trapping or setting any such traps on premises owned or occupied by such owner or occupant.

§ 82-23. 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 article 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.

ARTICLE IV
Animal Raising

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. XIV of Ch. 137 of the 1979 Code; amended in its entirety 2-21-2023 by Ord. No. O-22-25]

§ 82-24. Definitions.

The following terms, as used in this article, shall have the meanings stated in this section:

CHICKEN — All life stages of the fowl of the genus Gallus and species Gallus domesticus.

COOP — A cage or pen for confining chickens.

DWELLING — A shelter (such as a house) in which people live.

HEN — A female chicken.

LICENSED PREMISES — The lot for which a chicken license has been applied for or granted, as the applicable context requires.

LOT — A contiguous parcel of land under common ownership.

ROOSTER — A male chicken.

RUN — An area inside a fence where chickens are kept and allowed to walk around, scratch the earth, have a dust bath, and exhibit natural behavior.

§ 82-25. Keeping of certain animals prohibited.

No person shall have or keep in his or her possession any goats, sheep, roosters, or swine within the limits of the Township of Montclair.

§ 82-26. License required.

No person shall have or keep in his or her possession any live chickens or pigeons without first having obtained a license from the Department of Health.

§ 82-27. License not transferable.

Such license shall not be transferable and shall continue in force and effect until the first day of January next ensuing the date of granting thereof.

§ 82-28. License fee.

An annual license fee valid for the current year is hereby established as \$25. Said fee shall accompany the application for a license.

- A. If the application is denied, the license fee shall be returned to the applicant.
- B. If a license is surrendered by a license holder or revoked before the end of the license period, no refund shall be given.
- C. All renewal license fees for the next calendar year must be submitted by December 31.

§ 82-29. License requirements.

No chicken license shall be issued or renewed until Animal Control has determined that all the following conditions have been met:

- A. An application has been submitted with accurate and complete information.
- B. An inspection of the premises, coop and run described in the application has been performed by the Township with the applicant's permission.
- C. Based on the application and inspection, the requirements of this article have been met regarding the construction and location of the chicken coop and run on the licensed premises.
- D. Based on the application and inspection, all other improvements and equipment required to meet the requirements of this article have been installed on the premises.
- E. Public health and safety will not be endangered by granting or renewing the requested license.

§ 82-29.1. License period.

Chicken licenses are effective for one year commencing on January 1 of each year and expiring on December 31 of the same year. Each new chicken license issued after January 1 shall run for the remainder of the calendar year.

§ 82-29.2. License application.

A person desiring to keep chickens in Montclair must apply for an annual chicken license using forms supplied by a designee of Montclair Animal Control. An application for an initial license may be made at any time. An application for a renewal license may be made at any time after December 1 for the upcoming license year. The application for an initial or renewal license shall include, but not be limited to, the following information and agreements:

- A. The address of the lot where the chickens will be kept.
- B. A scaled drawing showing the location, size, and dimensions of the coop and run, including the distance of the coop and run from other structures on the licensed premises and neighboring property lines.
- C. The number of chickens to be kept at the licensed premises.
- D. An agreement by the applicant that the licensed premises may be inspected by Animal Control at any time to ensure compliance with this article.
- E. A statement that the applicant understands the conditions and requirements of this article.

§ 82-29.3. Rules and regulations for keeping chickens, pigeons, and animals for raising.

The following rules and regulations shall govern the keeping of live chickens, pigeons, and the keeping of animals for raising:

- A. No person shall keep or permit to be kept in any dwelling, house, store or building occupied by human beings any live chickens, pigeons or other animals for raising, nor shall such animals be permitted to run or fly at large within the Township of Montclair, except that pedigreed homing, high-flying or air-performing pigeons may be permitted to fly for exercise or training, at the discretion of the owner,

unless such flight shall prove to be a public nuisance.

- B. The construction, location and maintenance of sheds, coops, pens and other structures in which animals or chickens are kept or housed shall comply with the following requirements:
- (1) All chickens shall be provided access to both a coop and a run located in the rear yard of the licensed premises.
 - (2) No structure shall be built or maintained which is less than 50 feet from the doors or windows of any neighboring dwelling and not less than six feet from any neighboring property line. Further, the coop and run shall be set back at least 25 feet from any delineated wetland edge or the top of any bank of a pond, filtration basin, or infiltration basin. No coop or run shall be located on any easement or right-of-way area. Further, the coop shall provide adequate protection from the elements and shall be winterized. All fencing and electrical work associated with the chicken coop and run shall comply with all building and zoning codes, and all appropriate permits and licenses shall be obtained.
 - (3) All such places shall be kept in good repair, shall have a floor impervious to moisture, be waterproof, free from rats and vermin, and ventilated and in a clean and sanitary condition at all times.
 - (4) Chicken coops shall have a minimum footprint area of 1.5 square feet per chicken. Chicken runs shall have a minimum footprint area of eight square feet per chicken. The coop shall be elevated above the ground and may not exceed a height of seven feet as measured from the ground. An eight-and-one-half-inch roosting bar for each chicken should be attached inside the structure in which chickens are to be kept.
 - (5) All plans for such structures and all structures intended for the use of housing such animals or chickens that are equal to or greater than 200 square feet shall be in accordance with the Building Code of the Township of Montclair.⁵¹
 - (a) When a chicken license expires or is revoked, the licensee shall remove the coop and run from the licensed premises no later than 180 days after the expiration or revocation date. Removal shall not be required, however, so long as a chicken license is renewed before it expires or within 60 days after it expires.
- C. No more than 25 chickens shall be kept by any one applicant at any one location, excepting that persons engaged in the breeding or raising of animals or chickens for commercial purposes in the business zone, as nonconforming uses, or in the industrial zone as defined in Chapter 347, Zoning, of the Code of the Township of Montclair, New Jersey, whose structures for keeping and housing animals or chickens are located not less than 100 feet from any neighboring dwelling, may, at the discretion of the Director of the Department of Health, be permitted to keep more than 25 chickens. No greater number of animals or chickens shall be kept by any licensee than shall be designated in the license.
- D. All manure shall be composted or stored in tightly covered containers or kept in any other manner as approved by the Department of Health so as not to breed flies or create a nuisance.
- E. The Township of Montclair may inspect a licensed premises at any time to confirm compliance with the requirements of this article.

51. Editor's Notes: See Ch. 121, Construction Codes, Uniform.

§ 82-29.4. Violations and penalties.

Any person who violates any provision of this article shall, upon conviction thereof, be punished by a fine not exceeding \$500. Each day on which a violation of this article 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.

ARTICLE V

Cats

[Adopted 3-9-1993 by Ord. No. 93-11 (Art. IV of Ch. 76 of the 1979 Code)]

§ 82-30. Definitions.

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

ANIMAL CONTROL AUTHORITY — Any person or agency designated or certified by the Township of Montclair to enforce the provisions of this article.

CAT — Any member of the species *Felis catus*. [Amended 12-20-2022 by Ord. No. O-22-26]

CAT OF LICENSING AGE — Any cat which has attained the age of seven months or which possesses a set of permanent teeth.⁵²

LICENSING AUTHORITY — The agency or department of the Township of Montclair or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this article.

NEUTERED — Rendered permanently incapable of reproduction as certified by a licensed veterinarian.

OWNER — When applied to the proprietorship of a cat, includes every person having a right of property (or custody) in such cat and every person who has such cat in his/her keeping or who harbors or maintains a cat or knowingly permits a cat to remain on or about any premises occupied by that person.

§ 82-31. Rabies vaccination provisions.

- A. Vaccination and license requirements. No person shall own, keep, harbor or maintain any cat over seven months of age within the Township of Montclair unless such cat is vaccinated and licensed. The provisions of this section do not apply to cats held by a state or federally licensed research facility or a veterinary establishment where cats are received or kept for diagnostic, medical, surgical or other treatments, or licensed animal shelters, pounds, or kennels. [Amended 12-20-2022 by Ord. No. O-22-26]
- B. Vaccination. All cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization, published by the National Association of State Public Health Veterinarian, except as provided for in Subsection D.
- C. Vaccination certificate. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the state.
- D. Exceptions. Any cat may be exempted from the requirements of such vaccination for a specified period of time by the local Board of Health, upon presentation of a veterinarian's certificate stating that, because of an infirmity or other physical condition or regimen of therapy, the inoculation of such cat shall be deemed inadvisable.

§ 82-32. Licensing requirements; fees.

- A. Cats must have license number displayed. Any person who shall own, keep or harbor a cat of

52. Editor's Note: The former definition of "cattery," which immediately followed this definition, was repealed 12-20-2022 by Ord. No. O-22-26.

licensing age shall annually apply for and procure from the Municipal Clerk of the municipality, or other official designated by the governing body thereof to license cats in the municipality in which he/she resides, a license and official registration tag with license number, or a registration sleeve for each cat so owned, kept or harbored, and shall place upon such cat a collar or other device with the license number securely fastened or displayed thereto. Acceptable methods of displaying the license number shall include but are not limited to breakaway or elastic collars. License tags or sleeves are not transferable.

- B. Time for applying for license. The owner of any newly acquired cat of licensing age, or of any cat which attains licensing age, shall make application for license tag or sleeve for such cat within 10 days after such acquisition or age attainment. This requirement will not apply to a nonresident keeping a cat within the Township of Montclair for not longer than 90 days.
- C. Cats brought into Township of Montclair.
 - (1) Any person who shall bring or cause to be brought into the Township of Montclair any cat licensed in another state for the current year and bearing a registration tag or sleeve, and shall keep the same or permit the same to be kept within the Township of Montclair for a period of more than 90 days, shall immediately apply for a license and registration tag or sleeve for each such cat.
 - (2) Any person who shall bring or cause to be brought into the Township of Montclair any unlicensed cat, and shall keep same or permit same to be kept within the Township of Montclair for a period of more than 10 days, shall immediately apply for a license and registration tag or sleeve for each such cat.
- D. Application contents; preservation of information. The application shall state the breed, sex, age, color and markings of the cat for which license and registration are sought and whether it is of a long- or short-haired variety; also the name, street and post office address of the owner and the person who shall keep or harbor such cat. The information on said application and the registration number issued for the cat shall be preserved for a period of three years by the Municipal Clerk or other local official designated to license cats in the municipality.
- E. License forms and tags. License forms and official tags or sleeves shall be furnished by the municipality and shall be numbered serially and shall bear the year of issuance and the name of the municipality.
- F. Evidence of inoculation with rabies vaccine or certification of exemption; requirement for license. No Municipal Clerk or other official designated by the governing body of any municipality to license cats therein shall grant any such license and official registration tag or sleeve for any cat unless the owner thereof provides evidence that the cat to be licensed and registered has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Agriculture and the United States Department of Human Services or has been certified exempt as provided by § 82-31D of this article. The rabies inoculation shall be administered by a duly licensed veterinarian or by such other veterinarian permitted by law to do the same.
- G. License fee schedule (one-year term), September 1 to August 31. **[Amended 9-10-2013 by Ord. No. O-13-46]**
 - (1) The fee for a license issued shall be \$8 for each spayed/neutered cat and \$11 for each unspayed/unneutered cat. Persons who fail to obtain a license as required within the time period specified

in this section (by November 1) will be subject to a delinquent fee of \$10.

- (2) Fees for senior citizens, age 60 and over, shall be \$5 for each neutered cat and \$8 for each unneutered cat.

H. Fee; renewals; expiration date of license.

- (1) A license from another municipality shall be accepted. The person applying for the license and registration tag and/or sleeve shall pay the fee fixed or authorized. The fee for the renewal of license and registration tag or sleeve shall be the same as for the original, and said license, registration tag or sleeve and renewal thereof shall expire on September 30 in the year following its issuance.
- (2) Only one license and registration tag or sleeve shall be required in the licensing year for any cat in the Township of Montclair. Any valid New Jersey license tag or sleeve issued by a New Jersey municipality shall be accepted by this municipality as evidence of compliance for the duration of its original term.

I. Loss of license. If a license or sleeve has been misplaced or lost the Health Department may issue a duplicate license and/or registration sleeve for that particular cat at a fee of \$1. **[Amended 9-10-2013 by Ord. No. O-13-46]**

J. Proof of licensing. Proof of licensing shall be produced by any person owning, keeping, maintaining or harboring a cat upon the request of any health official, police officer, animal control officer or other authorized person.

K. Interfering with persons performing duties under this article. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this article.

§ 82-33. Disposition of fees collected.

A. License fees and other moneys collected or received under the provisions of this article shall be forwarded to the Treasurer of the municipality and shall be placed in a special account separate from any of the other accounts of the municipality and shall be used for the following purposes only:

- (1) Collecting, keeping and disposing of cats liable to seizure.
- (2) Local prevention and control of rabies.
- (3) Providing anti-rabies treatment under the direction of the local Board of Health for any person known or suspected to have been exposed to rabies.
- (4) Administering the provisions of this article.

B. Any unexpected balance remaining in such special account shall be retained until the end of the third fiscal year following and may be used for any of the purposes set forth in this section. At the end of said third fiscal year following, and at the end of each fiscal year thereafter, there shall be transferred from such special account to the general funds of the municipality any amount then in such account which is in excess of the total amount paid into the special account during the last two fiscal years next preceding.

§ 82-34. 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 article 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.

ARTICLE VI
Feeding of Wildlife
[Adopted 2-28-2006 by Ord. No. 06-04]

§ 82-35. Purpose.

This is an article prohibiting the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Township of Montclair so as to protect public health, safety and welfare and prescribing penalties for failure to comply.

§ 82-36. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning:

FEED — To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON — Any individual, corporation, company, partnership, firm, association or political subdivision of the State of New Jersey subject to municipal jurisdiction.

WILDLIFE — All animals that are not domesticated.

§ 82-37. Prohibited conduct.

No person shall feed in any public park or on any other property owned or operated by the Township of Montclair any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers or unconfined wildlife at environmental education centers or feral cats as part of an approved Trap-Neuter-Release program).

§ 82-38. Enforcement.

This article shall be enforced by the Police Department and/or other municipal officials of the Township of Montclair. Any person found to be in violation of this ordinance shall be ordered to cease the feeding immediately.

§ 82-39. Violations and penalties. [Amended 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

ARTICLE VII
Animal Control Officers
[Added 2-6-2007 by Ord. No. 07-04]

§ 82-40. Animal Control Officers. [Amended 6-12-2018 by Ord. No. O-18-027]

- A. The governing body shall appoint a certified Animal Control Officer pursuant to N.J.S.A. 4:19-15.16b. The appointed Animal Control Officer shall be certified pursuant to N.J.S.A. 4:19-15.16a.
- B. The Animal Control Officer shall be responsible for animal control within the Township and shall enforce and abide by the provisions of N.J.S.A. 4:19-15.16.

§ 82-41. Municipal humane law enforcement officers. [Added 6-12-2018 by Ord. No. O-18-027]

- A. The governing body shall appoint at least one municipal humane law enforcement officer pursuant to N.J.S.A. 4:22-14.1 with qualifications and duties as provided in N.J.S.A. 4:22-14.2.
- B. The governing body may designate as a municipal humane law enforcement officer any qualified individual who satisfactorily completes the training course developed pursuant to N.J.S.A. 4:22-11.11, as soon as practicable, but no later than one year after the date on which the officer's designation is approved by the Chief of Police. An Animal Control Officer or a police officer may serve concurrently or any other municipal employee as a municipal humane law enforcement officer, so long as the officer is able to effectively carry out the duties and responsibilities required of each position held.

ARTICLE VIII

Sale of Animals**[Adopted 12-20-2022 by Ord. No. O-22-26]****§ 82-42. Definitions.**

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

ANIMAL RESCUE ORGANIZATION — A nonprofit organization incorporated under the law of any state and exempt from federal taxation under § 501(c)(3) of the federal Internal Revenue Code, as amended, and whose principal purpose is the prevention of cruelty to animals and whose principal activity is to rescue sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals and to adopt them to good homes. "Animal rescue organization" does not include any entity that breeds animals or that 1) is located on the same premises as; 2) has any personnel in common with; 3) obtains, in exchange for payment or any other form of compensation, dogs or cats from; or 4) facilitates the sale of dogs or cats obtained from a person that breeds animals.

ANIMAL SHELTER — A facility, whether located in or outside the State of New Jersey, that is operated by or under contract with any state or a political subdivision of a state for the purpose of impounding or caring for seized, stray, homeless, abandoned, unwanted, or surrendered animals.

RETAIL PET STORE — A commercial establishment that sells or offers for sale animals on its premises at retail.

SELL or OFFER FOR SALE — To display for sale or to exchange for consideration, adopt out, barter, auction, trade, lease, or otherwise transfer.

§ 82-43. Sale or offer for sale of dogs or cats by retail pet stores prohibited.

- A. It is unlawful for a retail pet store, as defined in § 82-42, to sell or offer for sale a dog or a cat.
- B. Nothing in this section shall be construed to prohibit a retail pet store from providing space to an animal rescue organization or an animal shelter, as those terms are defined in § 82-42, to publicly showcase dogs or cats available for adoption.

§ 82-44. Violations and penalties.

A retail pet store that violates § 82-43 shall, upon conviction thereof, be punished by a fine of \$500. Each sale or offer for sale made in violation of § 82-43 shall constitute a separate violation.

§ 82-45. 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.

ARTICLE IX
Native Wildlife Management
[Adopted 4-7-2026 by Ord. No. O-26-07]

§ 82-46. Purpose.

- A. The purpose of this article is to establish a binding municipal policy of non-lethal native wildlife management utilizing conflict-based strategies.
- B. Lethal native wildlife management shall be considered only under the limited emergency circumstances expressly provided in this article.

§ 82-47. Definitions.

As used in this article:

LETHAL WILDLIFE MANAGEMENT — Means any activity undertaken with the intent to lethally eliminate or reduce native wildlife populations within the Township with any weapon whatsoever, including, but not limited to, rifles, shotguns, muzzleloaders or any other firearms, bow and arrow, crossbows, compound bows, or trapping with lethal intent. This includes organized culling and killing by outside entities.

NATIVE WILDLIFE — Means any wild bird, mammal, reptile, amphibian, fish or other animal species indigenous to New Jersey as defined and regulated by the New Jersey Division of Fish and Wildlife pursuant to N.J.S.A. 23:1-1 et seq. and N.J.A.C. 7:25-1-1 et seq.

§ 82-48. Prohibitions.

- A. The Township shall not authorize, fund, conduct, or participate in any lethal native wildlife management activity within the Township.
- B. The Township shall not enter contracts, grant agreements, or interlocal arrangements for lethal native wildlife management.
- C. The Township shall not participate in state, county, or regional programs involving lethal native wildlife population reduction except in cases of a declared public health emergency as determined by the Montclair Department of Health in coordination with the New Jersey Department of Health and where no non-lethal approaches exist to address the declared public health emergency.

§ 82-49. Emergency exceptions.

Lethal action against native wildlife may only be taken by licensed veterinarians, certified wildlife rehabilitators, animal control officers or law enforcement officers performing humane euthanasia of injured or diseased native wildlife or in cases of a declared public health emergency as determined by the Montclair Department of Health in coordination with the New Jersey Department of Health and where no non-lethal approaches exist to address the declared public health emergency.

§ 82-50. Severability.

If any section, paragraph, sentence, or clause of this article shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

MONTCLAIR CODE

Chapter 83

ANIMAL SHELTER

[HISTORY: Adopted by the Township Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 82.

ARTICLE I
Fee Schedule
[Adopted 5-22-2012 by Ord. No. O-12-33]

§ 83-1. Fees established.

The following fees shall be paid for animal adoptions and other services provided by the Montclair Township Animal Shelter (MTAS):

A. Adoption fees:

- (1) Cat/kitten: \$100.
- (2) Second cat/kitten: \$50.
- (3) Dog/puppy: \$140.
- (4) Second dog/puppy: \$70.
- (5) Rabbit: \$40.
- (6) Ferret: \$40.
- (7) Birds: \$20 to \$60 (dependent upon breed).

B. Special adoption events:

- (1) Animal adoption fees reduced to half price during specially advertised adoption promotion events.
- (2) Five-Dollar Feline Event: adoption fee for cats/kittens reduced to \$5.

C. Microchipping service:

- (1) Single microchip: \$20. (Registration of microchip is the responsibility of the owner.)

D. Animal surrender fees:

- (1) Neutered or spayed animal (certified by vet): \$20.
- (2) Non-neutered or -spayed animal: \$40.
- (3) Surrender of animal with bite history, aggressiveness or chronic illness, limiting adoptability: \$100.
- (4) Pickup for surrender (ex., for sick/aggressive animal): \$150.
- (5) Expired animal dropoff for disposal: \$100.
- (6) Expired animal pickup for disposal: \$150.

E. Impound fees:

- (1) Day one: \$20.
- (2) Each additional day: \$10.

- (3) Additionally, any applicable veterinary, medical and/or other costs incurred by MTAS are the responsibility of the owner upon redemption.

F. Animals impounded due to quarantine or litigation:

- (1) Day one: \$20.
- (2) Each additional day: \$10.
- (3) Additionally, any applicable veterinary, medical and/or other costs incurred by MTAS are the responsibility of the owner upon redemption.

Chapter 86**AUCTIONS AND AUCTIONEERS**

[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 Art. I of Ch. 88 of the 1979 Code; amended in its entirety 5-8-2001 by Ord. No. 01-33. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 238.

Special sales — See Ch. 264.

§ 86-1. License required.

- A. No person shall carry on the business of an auctioneer without first obtaining a license therefor from the Municipal Clerk.
- B. It shall be unlawful for any person to conduct an auction within the Township of Montclair without first obtaining a license from the Municipal Clerk.
- C. The provisions of this chapter shall not apply to auctions conducted on the premises within the Township of any religious, fraternal or charitable corporation or association, the net proceeds or profits of which auctions are devoted exclusively for religious, charitable, educational, benevolent or eleemosynary purposes, provided that:
 - (1) Notification of each such auction and of its purposes and of the name and address of such auctioneer conducting the same is filed by the sponsoring religious, fraternal or charitable corporation or association with the Chief of Police at least 10 days in advance of such auction.
 - (2) The auctioneer conducting such auction receives no moneys or other consideration for conducting such auction.

§ 86-2. Approval of license.

No license shall be issued under this chapter without the approval of the Township Manager and proof of compliance with all the terms of Chapter 264, Article II, Garage Sales, permitting such auction sale.

§ 86-3. License term; license nontransferable.

- A. Licenses for auctions under this chapter shall be issued for each auction to be conducted on a per-diem basis, and no license shall be transferable or assignable.
- B. Licenses for auctioneers under this chapter shall be applied for and issued for an annual term, which shall expire on May 1 following the date of their issue, or on a per diem basis. No license shall be transferable or assignable.

§ 86-4. License fees.

- A. The fee for licenses issued under this chapter shall be on per-auction basis at the rate of \$50 per auction.

§ 86-4

AUCTIONS AND AUCTIONEERS

B. The fee for auctioneers' licenses issued under this article shall be:

- (1) For an annual license: \$100 per year.
- (2) For a per-diem license: \$30 per day.

§ 86-5. Application for license.

The application for the auctioneer's license under this chapter shall be accompanied by the license fee specified in § 86-4 and a bond running in favor of the township executed by the applicant and a surety company authorized to do business in New Jersey, as surety. The bond shall be in the sum of \$1,000 and shall be conditioned upon due observance of all ordinances of the Township, the laws of the State of New Jersey, the conditions stated in the license, and any reasonable rules and regulations made by the Township Council respecting the sale or sales for which the license is granted. No license shall be issued until the bond has been approved as to amount, form and sufficiency by the Township Attorney.

§ 86-6. Notice of sale.

Notwithstanding the issuance of any license under this chapter, no auction sale shall be held by any licensee under this chapter unless a written notice thereof is given by the licensee 10 days prior to such sale addressed to the Township Manager.

§ 86-7. Suspension of sales; revocation of license.

Whenever the Manager receives information from any source which, in his or her judgment, charges or indicates, prima facie, that the licensee has practiced fraud, deceit or misrepresentation or is guilty of a breach of trust with respect to the license granted and the conditions therein set forth, the Manager shall forthwith send written notice to the licensee by registered or certified mail, specifying the charges and fixing a time for hearing. No sale or sales shall be conducted pending such hearing. If the Manager, after hearing, finds the licensee guilty of any of the aforesaid derelictions, he or she shall revoke the license, effective immediately upon the issuance of such finding.

§ 86-8. Violations and penalties. [Amended 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.

Chapter 88**BAMBOO**

[HISTORY: Adopted by the Mayor and Council of the Township of Montclair 8-15-2023 by Ord. No. O-23-32. Amendments noted where applicable.]

§ 88-1. Purpose and intent.

The purpose of this chapter is to preserve and protect private and public property from the damaging spread of bamboo.

§ 88-2. Definitions.

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

BUFFER ZONE — A distance of at least five feet from any lane, street or road, whether public or private, or from any neighboring property, whichever is more restrictive for the property owner.

CLUMPING BAMBOO — A category of bamboo, scientific name "Fargesia genus" with a root system that forms clumps known as "pachymorph or sympodial rhizomes".

NOTICE — Any written notice by, from or on behalf of the Township, notifying the property owner(s) that they are in violation of this chapter and directing them to cure or fix the violation. Such notice shall be sent by certified mail, return receipt requested, addressed to the owner(s) listed on the current tax address on file with the Township. A copy may also be posted on the property in question.

PROPERTY OWNER(S) — Any property owner(s) or tenant(s) who, or which, have running or clumping bamboo on their property, even if the bamboo has spread onto their property from an adjoining property.

RECEIPT OF NOTICE — Receipt of the notice required herein shall be the date of mailing said notice, or, if applicable, posting of the notice on the property in question, whichever is earlier.

RUNNING BAMBOO — Any monopodial (running) woody grass from the genera of bamboos, including, but not limited to, Bambusa, Phyllostachys and Pseudosasa, as well as common bamboo, golden bamboo and arrow bamboo.

TOWNSHIP — The Township of Montclair, Essex County, New Jersey.

§ 88-3. Bamboo.

A. No planting of running or clumping bamboo.

- (1) The planting of running or clumping bamboo is prohibited within the Township.
- (2) Any existing running or clumping bamboo may not be replanted or replaced after any such existing running or clumping bamboo has died or been removed.
- (3) Any person who plants or replants running or clumping bamboo within the Township limits after the effective date of this chapter shall be in violation of this chapter and shall be subject to the penalties set forth herein, subject to the following exceptions:
 - (a) The root system of such running or clumping bamboo is entirely contained within an aboveground planter and located so as to entirely prevent the spread or growth of the plants' root system beyond the container in which it is planted; or

- (b) The root system is contained within a barrier, constructed in accordance with the following specifications:
 - [1] The barrier itself shall be composed of a high-density polypropylene or polyethylene, with a minimum thickness of six mil (or 1/16 of an inch);
 - [2] Each portion of the barrier shall be joined together by the use of stainless steel strips or clamps;
 - [3] The barrier shall be a minimum of 30 inches deep, with two inches to three inches of the barrier protruding above ground level around the entire perimeter of the bamboo;
 - [4] When installed, the barrier shall slant outward from the bottom to top.
 - (c) Whether planted or growing in a container, as described herein, all bamboo plants shall be located, trimmed and maintained so that no part of the plant shall be closer than five feet from any property line.
- B. Regulation of existing running or clumping bamboo.
- (1) Any running or clumping bamboo already in existence on any property within the Township limits as of the effective date of this chapter, may remain on such property, provided that running or clumping bamboo and its root system shall not be permitted to spread onto neighboring property.
 - (2) Property owner(s) shall take all necessary measures to ensure that any running or clumping bamboo, including the root system on their property, does not spread to neighboring properties. Such measures shall include, but are not limited to, cutting down running or clumping bamboo existing in the buffer zone and physically removing or poisoning the rhizomes or spraying any regrowth for several years until the running or clumping bamboo is dead.
 - (3) this chapter shall not be deemed to alter any rights at common law or otherwise that any property owner may have to recover the cost of removal of running or clumping bamboo on their own property from another property owner from whose property the running or clumping bamboo has spread.
- C. Removal of running or clumping bamboo. If running or clumping bamboo on any property grows or spreads onto neighboring property, the Township shall give notice to the property owner(s), as required by this chapter, that the offending property owner(s) are responsible for the extermination or permanent removal of such running or clumping bamboo from the neighboring property.
- D. Inspection. All premises within the Township shall be subject to inspection by the Code Enforcement Officer to determine compliance with this chapter as provided by law.
- E. Violations and penalties.
- (1) Notwithstanding the provision of § 88-3B, whenever running or clumping bamboo is found planted in the ground on any plot of land, lot or any other premises or place in contravention of the provisions of this chapter, a notice shall be given to the property owner(s), providing 30 days to remove or abate the same.
 - (2) The cost of the removal and/or abatement shall be borne by the property owner(s).
 - (3) If the property owner(s) fail(s) to comply with such notice, the Code Enforcement Officer may

remove or otherwise control the running or clumping bamboo and the Township may thereafter recover the cost of such removal from the property owner(s) and place a lien on the property to recover the cost of the removal according to law.

- (4) Any person violating this chapter who fails to abate the violation after notice shall be subject to a fine, not to exceed \$500, plus costs, for each day on which a violation has occurred, and for which the property owner has been found guilty. Each day on which the violation occurs shall be a separate offense under this chapter.

BARBERSHOPS

Chapter 90

BARBERSHOPS

[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 Art. II of Ch. 88 of the 1979 Code. Amendments noted where applicable.]

§ 90-1. Closing on Sundays and certain holidays.

Barbershops shall be closed to all trade and the conduct of business on Sundays and on each of the following legal holidays: New Year's Day, Memorial or Decoration Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

§ 90-2. Business hours.

Except as otherwise provided in §§ 90-1 and 90-3, barbershops shall open not earlier and close not later than the following hours on the following days:

	Opening Hour	Closing Hour
Weekdays	8:00 a.m.	7:00 p.m.
Saturdays	8:00 a.m.	9:00 p.m.

§ 90-3. Closing hours.

On the weekday evening preceding any holidays enumerated in § 90-1, barbershops shall close not later than 9:00 p.m.

§ 90-4. 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.

Chapter 93**BICYCLES**

[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. 80 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 327.

§ 93-1. Definitions.

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

BICYCLE — Any device upon which a person may ride propelled wholly or in part by human muscular power and having two tandem wheels, either of which is 20 inches or more in diameter.

§ 93-2. Registration and license requirements.

- A. No person residing in the Township shall operate a bicycle upon any public street or other public place within the Township unless such bicycle has been registered with the Police Department, as evidenced by a registration certificate, and a license tag is attached to such bicycle, as provided in this chapter.
- B. No person engaged in the business of renting bicycles for hire in the Township shall rent or offer for rent any bicycle which has not been registered and which does not have attached thereto a valid license tag pursuant to this chapter.

§ 93-3. Registration fee. [Amended 12-28-1993 by Ord. No. 93-50]

A fee of \$1 shall be paid for each registration. No registration certificate and license tag shall be issued unless the registration fee shall have been paid, except as otherwise provided in § 93-10.

§ 93-4. Application for registration and licensing. [Amended 5-23-2000 by Ord. No. 00-19]

Applications for bicycle registration certificates and license tags or for transfers thereof shall be made to the Police Department on a form approved by the Chief of Police and shall be accompanied by the prescribed registration fee. Such application shall set forth the name and address of the owner, a description of the bicycle, the name of the manufacturer and the serial number appearing on the frame of the bicycle.

§ 93-5. Inspection prior to registration.

The Chief of Police shall cause an inspection to be made of each bicycle for which an application is made under § 93-4. If the Chief finds that the application states correctly the required information and that the bicycle is in a safe mechanical condition, he or she shall issue to the owner of the bicycle a registration certificate and a license tag.

§ 93-6. Details of certificate and license tag.

- A. Every registration certificate shall be numbered in sequence and shall set forth the name and address of the owner of the bicycle and the serial number appearing on the frame of the bicycle.
- B. Each license tag shall bear the legend "Montclair, N.J. Police Department," the phrase "Bicycle License" and the date of expiration of the registration certificate. License tags shall be numbered in sequence, and the number thereon shall correspond to the number on the registration certificate issued for such bicycle.

§ 93-7. Attachment of tag.

The license tag shall be firmly attached to the rear mudguard or frame of the bicycle in such position as to be plainly visible from the rear.

§ 93-8. Duration of registration.

All registration certificates and license tags shall expire on May 31 of each year. They shall not be transferable except as provided in § 93-10.

§ 93-9. Report of sale or dismantling.

Each person who sells, transfers ownership of or permanently dismantles any bicycle registered pursuant to the provisions of this chapter shall make a report thereof and shall surrender the registration certificate and license tag to the Police Department within 10 days thereafter. Where the bicycle has been sold or ownership transferred, the report shall include the name of the person to whom such sale or transfer was made.

§ 93-10. Transfer of certificate and tag.

Where the owner of a registered bicycle surrenders the registration certificate and license tag pursuant to the provisions of § 93-9, he or she may, upon application, obtain the transfer of said certificate and tag to another bicycle owned by him or her for the balance of the unexpired term without the payment of any additional fee, provided the application for transfer and the substituted bicycle comply with the provisions of § 93-5.

§ 93-11. Reports of sales by dealers.

Each person engaged in the business of selling new or secondhand bicycles shall make a report to the Police Department of every bicycle purchased or sold by him or her within 10 days after such purchase or sale, giving the name and address of the person from whom purchased or to whom sold, a description of said bicycle by name or make, the serial number appearing on the frame thereof and the number of the license tag, if any, attached thereto.

§ 93-12. Records to be kept by Police Department.

The Police Department shall keep a record of the registration of all bicycles, including the number of each registration certificate and license tag issued, the date of issuance, the name and address of the person to whom issued and the name or make and the serial number on the frame of the bicycle for which issued.

§ 93-13. Tampering with tags or serial numbers.

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- A. No person shall remove, destroy, mutilate or alter any license tag during the period for which it was issued, except that a license tag may be so removed for the purpose of surrendering the same to the Police Department in the event of sale or transfer of ownership or dismantling as provided in § 93-9.
- B. No person shall willfully or maliciously remove, destroy, mutilate or alter the serial number on the frame of any bicycle registered pursuant to this chapter.

§ 93-14. 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.

Chapter 96**BOARDINGHOUSES**

[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 Art. VIII of Ch. 88 of the 1979 Code. Amendments noted where applicable.]

§ 96-1. Definitions.

- A. As used in this chapter, the following terms shall have the meanings indicated:

BOARDINGHOUSE — Any building in which four 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. For the purpose of this chapter, convents or nurses homes connected with a hospital shall not be included as boardinghouses under this definition.

RELATED BY BLOOD OR MARRIAGE — Includes only a husband, a wife, sons (and their wives), daughters (and their husbands), parents, grandparents, great-grandparents, grandchildren, great-grandchildren and legally adopted children.

ROOMING HOUSE — A building wherein furnished rooms are rented for a valuable consideration to four or more persons not related in direct line by blood or marriage to the owner or operator of such rooming house.

- B. Bona fide employees of the owner or operator, living in and working full-time on the premises, will not be included in the number of persons permitted in either a rooming or boarding house.

§ 96-2. License required.

No person shall manage, conduct, own or operate the business of keeping a boardinghouse or rooming house without first having obtained a license therefor as hereinafter provided.

§ 96-3. Contents of application; agreement.

- A. Application for a license under this chapter shall be made in writing to the Building Inspector on forms to be provided by him or her and shall be accompanied by the license fee hereinafter specified. The application shall accurately state:
- (1) The number of rooms in the house.
 - (2) The number of rooms to be let to boarders or lodgers.
 - (3) The number of boarders or lodgers to be accommodated at maximum capacity.
 - (4) The location of the proposed business.
 - (5) The names of the owner and of the operator of the premises where the business is proposed to be carried on.
- B. The application shall include an agreement by the applicant to require each occupant of the house not related in direct line by blood or marriage to the owner or operator to register his or her name in a book open to public inspection, together with the date of the beginning of his or her occupancy.

§ 96-4. Prerequisites for licensing.

After receiving an application for a license, the Superintendent of Building Inspections or his or her representative shall inspect the premises. No license shall be issued by him or her unless the following requirements are met:

- A. The building shall have a minimum of one complete bathroom with water closet, lavatory and tub or shower bath on each floor having sleeping rooms, except that no bathroom will be required on the third floor unless there are more than two sleeping rooms; provided, however, that in any case there must be at least one complete bathroom for every eight persons or portion thereof residing in the building. Each bathroom shall be accessible to the occupants from their respective sleeping rooms without the necessity of passing through the sleeping room of any other occupant in the building.
- B. If any floor above the second floor of any building is used for sleeping purposes by any persons, each such floor above the second floor shall be provided with at least two exits to the ground, each remote from the other and accessible without passing through any bedroom, bathroom or other private area, one of which said exits may be an outside metal fire escape. The stairway or ladder leading to the ground from the lowest landing of any such outside fire escape shall be permanently fixed at the ground. All requirements pertaining to such exits and outside fire escapes as are set forth in the Basic Building Code and other applicable ordinances of the Township of Montclair,⁵³ as well as other applicable state and county laws and regulations, must also be complied with.
- C. Cooking appliances.
 - (1) In any room or group of rooms occupied by one or more persons or by one family in a rooming house, there shall be only one electrical outlet used or usable for cooking purposes. Only one single burner electrical cooking appliance having an electrical demand of not over 1,000 watts shall be connected to this outlet at any one time, and no appliance with an oven or similar attachments shall ever be connected. With respect to this outlet and the electrical supply to it, the owner or operator of the establishment or the tenant shall have and exhibit upon request a written approval for such use in the form of a certificate issued by the Middle Department of the National Board of Fire Underwriters, according to the National Electrical Code for Electric Wiring and Apparatus.
 - (2) All electrical cooking appliances in use shall be located on a noncombustible base of gypsum board not less than 3/4 of an inch thick and surfaced with a nonabsorbent material or on materials furnishing equivalent fire resistance. All horizontal surfaces under or adjacent to the appliance must be of metal or other nonabsorbent material. The use of sheet metal on combustible material is prohibited. Fixtures and appurtenances of combustible materials and all walls 15 inches or less from any part of an electrical cooking appliance shall be insulated with noncombustible materials. Electrical cooking appliances shall not be used or installed in any location where curtains, drapes or similar furnishings may come in contact with a heating element.
- D. Inspections for compliance with fire and health regulations.
 - (1) The Superintendent of Building Inspections shall request the Chief of the Fire Department or an authorized member of the Fire Department to inspect the premises for compliance with the Fire Prevention Code.⁵⁴ If after inspection by said Chief a fire hazard is disclosed by such inspection

53. Editor's Note: Currently, see Ch. 121, Construction Codes, Uniform; and Ch. 153, Fire Prevention.

54. Editor's Note: See Ch. 153, Fire Prevention.

as arising by reason of the occupancy which is proposed in the building for which a license is sought, the license shall not be issued; provided, however, that the applicant, upon his or her written request, directed to the Fire Chief, shall have opportunity to be heard with respect to the nature and extent of the fire hazard.

- (2) The Superintendent of Building Inspections shall request the Health Officer to inspect the premises for compliance with the Health Code of the Township of Montclair.⁵⁵ If after inspection by said Health Officer a health hazard is disclosed by such inspection as arising by reason of the occupancy which is proposed in the building for which a license is sought, the license shall not be issued; provided, however, that the applicant, upon his or her written request, directed to the Health Officer, shall have opportunity to be heard with respect to the nature and extent of the health hazard.
- E. Whenever requested by the Superintendent of Building Inspections, any applicant or licensee shall file with the Building Department a certificate issued by the Middle Department Association of Fire Underwriters, certifying that all wiring in the building is adequate for the purposes for which used.
 - F. Occupancy by disabled persons.
 - (1) Occupancy by a person who is bedridden or disabled to the point of requiring special care is prohibited. The operator of the building is required to report such person to the Building Department, which shall thereupon request the Health Department to investigate the report.
 - (2) Whenever the Health Department believes that an occupant is bedridden or disabled, the Health Officer may require that the person produce within 48 hours a physician's certification that the person is neither bedridden nor seriously disabled and that he or she is ambulatory and capable of taking care of himself or herself. If the person is unable to produce such a certificate, the Health Department shall order the person to vacate the premises within 24 hours and shall advise the Building Department as soon as the order has been complied with.
 - G. There shall be present on the premises at all times a qualified adult who shall be in charge of and responsible for every rooming and boarding house, and the name of this adult shall be on file with the Building Department and the Health Department.
 - H. Night-lights shall be provided in all common areas leading to bathrooms and stairs.
 - I. In all boardinghouses where food is prepared, the premises shall also be subject to the regulations and requirements of the Health Code and shall be supervised by the Health Officer as well as the Superintendent of Building Inspections.
 - J. If the operator of any rooming house does not allow any cooking in individual rooms, said operator may subject to requirements of the Health Department and the Fire Department, establish within the building a community kitchen in which the roomers may do their own cooking.
 - K. Every operator shall provide bedding, mattresses, bed linens, blankets, pillows and towels for all occupants. All such items shall be kept in a clean and sanitary condition. Fresh, clean bed linens and towels shall be supplied for each new occupant at the commencement of the term of occupancy and fresh, clean bed linens and towels shall be provided at least once a week.
 - L. Each rented sleeping room shall contain within itself a clothes closet, portable wardrobe or other means of hanging the clothing of the occupant within an enclosed compartment.

55. Editor's Note: See Ch. 186, Health Standards.

§ 96-4

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M. No room used for sleeping shall be occupied by more than two persons, except that for the purpose of this subsection a child under one year of age shall not be counted.

§ 96-5. Term of license.

Licenses shall be issued for a term of one year, commencing on the first day of June of each year and expiring on the 31st day of May next succeeding the issuance of said license. Licenses issued after the first day of June in any year shall expire on the 31st day of the succeeding May.

§ 96-6. License fee.

The fee for a license shall be \$25 per year.

§ 96-7. Periodic inspections.

Any building licensed as a boardinghouse or rooming house under this chapter may be inspected from time to time by the Superintendent of Building Inspections, the Health Officer or their representatives, and by any officer of the Fire Department, to determine whether said building complies with the provisions of this chapter and all other applicable laws, regulations and ordinances of the Township of Montclair, the State of New Jersey and all bodies or agencies having jurisdiction.

§ 96-8. Revocation of license.

Any license issued under this chapter may be suspended or revoked by the Director of the Department of Public Works or the Director of the Department of Parks and Public Property, after hearing on notice, for violation of the terms of the license, for violation of any township ordinance or regulation for violation of any state statute, for violation of the applicable rules or regulations of any other public agency or body, for making false statements in the application for a license or for failing to promptly notify the Superintendent of Building Inspections of any change of circumstances regarding data supplied on the license application occurring after the filing of the application for a license and before the end of the license year.

§ 96-9. 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.

BRUSH, GRASS AND WEEDS

Chapter 100

BRUSH, GRASS AND WEEDS

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and playgrounds — See Ch. 234.

Garbage, rubbish and refuse — See Ch. 292, Art. IV.

Property maintenance — See Ch. 247.

ARTICLE I

Brush, Weeds and Other Debris

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 137 of the 1979 Code]

§ 100-1. Removal required; notice. [Amended 5-23-2000 by Ord. No. 00-19]

Whenever the presence upon any lands within the Township of brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris is inimical to the public health, safety and general welfare or likely to constitute a fire hazard, any owner or tenant of such lands shall be required to remove therefrom any such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris within 10 days after service of a written notice, given either by the Township Manager or by his or her duly authorized agent, requiring such removal and setting forth the reasons therefor. Service of the notice shall be made upon such owner or tenant either personally or by registered or certified mail addressed to him or her at his or her last known post office address. Service of the notice by mail shall be deemed complete upon the mailing thereof.

§ 100-2. Removal by Township.

In case the owner or tenant of any lands who is served with the notice described in § 100-1 fails, neglects or refuses to effect removal of the conditions and substances as therein demanded and within the ten-day period provided in § 100-1, then the Township Manager, his or her agent or deputy may, on behalf of the Township, remove or cause the removal of same.

§ 100-3. Lien for costs.

The officer causing such removal shall certify the cost thereof to the Township Council. Upon receipt of the certificate, the Township Council shall examine the same and, if found correct, shall cause the cost as shown thereon to be charged against said lands. If such cost is found to be excessive, the Council shall cause the reasonable cost thereof to be charged against said lands. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands. Such amount shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 100-4. Violations and penalties.

- A. Any person who violates any provision of § 100-1 of this article 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. **[Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17]**
- B. The penalty provisions of Subsection A of this section shall be deemed to be in addition to and not in substitution of the provisions of §§ 100-2 and 100-3 of this article.⁵⁶

56. Editor's Note: Former Art. II, Plant Growth Injurious to Health, of Ch. 137, was deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE II
(Reserved)

§ 100-5. (Reserved)

§ 100-6. (Reserved)

§ 100-7. (Reserved)

§ 100-8. (Reserved)

§ 100-9. (Reserved)

§ 100-10. (Reserved)

ARTICLE III

Trimming of Brush

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 209 of the 1979 Code]

§ 100-11. Statutory authority.

This article is adopted pursuant to the authority of c. 152 of the Laws of 1949 (N.J.S.A. 40:48-2.26 et seq.).

§ 100-12. Trimming required.

Subject to the notice and show cause procedure hereinafter provided, the owner or tenant of any lands within the Township shall be required, wherever necessary and expedient for the preservation of the public safety, to keep all brush, hedges and other plant life growing within 10 feet of any roadway and within 25 feet of the intersection of two roadways trimmed or cut to a height of not more than 2 1/2 feet.

§ 100-13. Notice to remove; show cause procedure.

The Township Manager or his or her agent or deputy shall give 10 days' written notice to any owner or tenant to cut or trim the brush, hedges and other plant life growing within the limits and to the height specified in § 100-12, for the reasons which shall be set forth therein, unless such owner or tenant show cause before the officer giving the notice, at a place and time therein fixed, which time for hearing shall not be less than seven days nor more than 10 days after service of the notice, why the demands made therein shall not be complied with. Service of the notice upon the owner or tenant shall be made by mailing it, registered or certified mail, addressed to him or her at his or her last known address, and such service by mail shall be complete upon mailing.

§ 100-14. Trimming by Township.

If, after the service of the notice as provided in § 100-13 and the expiration of the ten-day period in said notice for compliance, the owner or tenant shall have failed, neglected or refused to show cause why he or she should not comply with the demands made therein or to perform the cutting or trimming in compliance therewith, the Township Manager, his or her agent or deputy may, on behalf of the Township, cause such brush, hedges and other plant life to be trimmed or cut as required by said notice.

§ 100-15. Lien for costs.

In every case in which the Township Manager or his or her agent or deputy causes such brush, hedges and other plant life to be trimmed or cut under the authority of this article, such officer shall certify the cost thereof to the Township Council. Upon receipt of the certificate, the Council shall examine the same and, if found correct, shall cause the cost as shown thereon to be charged against said lands. If such cost is found to be excessive, the Council shall cause the reasonable cost thereof to be charged against said lands. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands. Such amount shall bear interest at the same rate as other taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

§ 100-16. 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 article 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.

Chapter 104**BUILDINGS, NUMBERING OF**

[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 Art. IV of Ch. 192 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 121.

Subdivision of land — See Ch. 301.

Property maintenance — See Ch. 247.

§ 104-1. Definitions.

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

STREET — Any street, avenue, highway, boulevard, parkway or square.

§ 104-2. Assignment of numbers; maps. [Amended 6-15-2004 by Ord. No. 04-34]

The Director of Community Services, the Township Engineer or any officer in said Department delegated by the Director shall assign to every lot of land in the Township fronting upon any street a certain street number. Such street number shall be indicated upon a map or maps on file in the office of the Township Engineer.

§ 104-3. Lot front or street dimensions.

For the purposes of this chapter, each lot shall be of such front or street dimensions as shall be indicated upon the map or maps referred to in § 104-2. Such dimensions are hereby established and fixed.

§ 104-4. Affixing of numbers to buildings.

Each lot upon which a building is located shall bear, in figures or words having a minimum height of 2 1/2 inches and in such conspicuous location as to be plainly visible from a point opposite said lot distant from the property line at least 50 feet, the street number assigned to said lot as indicated upon the map or maps referred to in § 104-2.

§ 104-5. Assessment maps and records not affected.

Nothing in this chapter shall be construed to change the system of lot numbers as such appear upon the assessment maps and records of the Township.

§ 104-6. 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

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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.

Chapter 108**BUILDINGS, UNFIT**

[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 Art. I of Ch. 98 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Numbering of buildings — See Ch. 104.

Housing standards — See Ch. 190, Art. I.

Uniform construction codes — See Ch. 121.

Multifamily buildings — See Ch. 213.

Fire prevention — See Ch. 153.

Nuisances — See Ch. 218.

Health standards — See Ch. 186.

Property maintenance — See Ch. 247.

§ 108-1. Definitions.

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

BUILDING — Any building or structure or part thereof, whether used for human habitation or otherwise, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

HEARING ARBITER — Such member or members of the governing body of the Township of Montclair (including the Mayor) as shall be designated by the Mayor of the Township of Montclair as his or her agent to conduct the hearing or hearings on a specific complaint filed pursuant to the provisions of this chapter.

OWNER — The holder or holders of the title in fee simple.

PARTIES IN INTEREST — All individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.

PUBLIC AUTHORITY — Any housing authority or any officer who is in charge of any department or branch of the government of the Township of Montclair, the County of Essex or the State of New Jersey relating to health, fire, building regulations or to other activities concerning buildings in the Township of Montclair.

PUBLIC OFFICER — The officer who is authorized by this chapter to exercise the powers hereinafter prescribed for him or her.

§ 108-2. Legislative declaration.

It is hereby found and declared that the existence or occupation of any building or buildings or parts thereof in the Township of Montclair which are so old, dilapidated or have become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy or use is inimical to the welfare and dangerous and injurious to the health and safety of the residents of the Township of Montclair, and that a public necessity exists for the repair, closing or demolition of such building or buildings or parts thereof.

§ 108-3. Designation of public officer; powers.

- A. The Mayor of the Township of Montclair hereby is designated as the public officer authorized and empowered to exercise the powers prescribed by this chapter.
- B. The Mayor hereby is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to those granted elsewhere in this chapter:
 - (1) To investigate the building conditions in the Township of Montclair in order to determine which buildings are unfit for human habitation or occupancy or use.
 - (2) To enter upon premises for the purpose of making examinations and inspections, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
 - (3) To administer oaths, affirmations, examine witnesses and receive evidence.
 - (4) To appoint and fix the duties of such officers, agents and employees of the Township of Montclair as he or she deems necessary to carry out the purposes of this chapter.
 - (5) To delegate any of his or her functions and powers under this chapter to such officers and agents as he or she may designate.

§ 108-4. Complaint and hearing procedure.

- A. Whenever a petition is filed with the Mayor by a public authority or by at least five residents of the Township of Montclair, charging that any building is unfit for human habitation or occupancy or use, or whenever it appears to the Mayor (on his or her own motion) that any building is unfit for human habitation or occupancy or use, the Mayor shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner or parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Mayor or a hearing arbiter, at a place therein fixed, not less than seven days nor more than 30 days after the service of said complaint, that the owner and parties in interest have the right to file an answer to the complaint at or before the time fixed for the hearing and to appear in person or otherwise and give testimony at such hearing, and that the rules of evidence prevailing in the courts shall not be controlling at such hearing. **[Amended 5-23-2000 by Ord. No. 00-19]**
- B. If the hearing is to be held before a hearing arbiter, the Mayor shall inform the person named as hearing arbiter, and such hearing shall be conducted by said hearing arbiter. If for any reason such hearing arbiter shall be unable to conduct said hearing at the time and place set forth in the notice, the hearing may be adjourned from time to time with the consent of the Mayor and the owner and other parties in interest, or the Mayor may himself or herself conduct the hearing or may designate another person as hearing arbiter to conduct the hearing.

§ 108-5. Determination of unfitness.

- A. After notice and hearing, the Mayor may determine that a building is unfit for human habitation or occupancy or use if he or she finds that conditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the Township of Montclair. Such conditions may include the following (without limiting the generality of the foregoing):
 - (1) Defects therein increasing the hazards of fire, accident or other calamities.

- (2) Lack of adequate ventilation, light or sanitary facilities, including without limitation running water and toilet facilities.
 - (3) Dilapidation, disrepair, structural defects or uncleanness.
- B. The Mayor or other hearing arbiter may request any public authority, officer or employee of the Township of Montclair to make such investigations and inspections of any building or buildings within the Township of Montclair and to present evidence relating to the condition of such building at any hearing held pursuant to the provisions of this chapter.

§ 108-6. Report of arbiter; filing of exceptions.

- A. Within 30 days after the conclusion of any hearing held by a hearing arbiter other than the Mayor, the hearing arbiter shall prepare a report containing his or her recommended conclusions and order and shall file the original with the Mayor and forthwith submit a copy, either personally or by mail, to such of the owner and parties in interest as appeared or to their attorneys. Within 10 days after the delivery or mailing of the report, any owner or party in interest to whom such report was transmitted may file written exceptions and argument with the Mayor.
- B. The report of the hearing arbiter and the written exceptions and argument, if any, shall be considered by the Mayor before making his or her determination. Such report of the hearing arbiter shall not be binding upon the Mayor, and the Mayor's determination may, in whole or in part, adopt, modify or reject the report; provided, however, that if the Mayor shall change the order recommended, he or she shall not do so without first affording the owner and other parties in interest who have appeared at the hearing an opportunity to present oral argument before the Mayor.

§ 108-7. Order to repair or demolish.

If, after notice and hearing by the Mayor or after notice of hearing and report by a hearing arbiter other than the Mayor as set forth in § 108-5 hereof, the Mayor shall determine that the building under consideration is unfit for human habitation or occupancy or use, he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and the parties in interest an order:

- A. Requiring the repair, alteration or improvement of the said building to be made by the owner within a reasonable time, which time shall be set forth in the order, or, at the option of the owner, to vacate or have the said building vacated and closed within the time set forth in the order; and
- B. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve the said building within the time specified in the order, then the owner shall be required to remove or demolish the said building within a reasonable time as specified in the said order of removal.

§ 108-8. Failure of compliance; removal by township.

- A. Placarding of unfit building.
 - (1) If an owner fails to comply with an order to repair, alter or improve, or, at the option of the owner, to vacate and close the building, the Mayor may cause such building to be repaired, altered or improved, or to be vacated and closed; and the Mayor may cause to be posted on the main entrance of any building so closed a placard with the words: "This building is unfit for human habitation or occupancy or use; the use or occupancy of this building is prohibited and

unlawful."

- (2) Any building which has been so declared and placarded as unfit for human habitation or occupancy or use shall be vacated forthwith, and no person shall thereafter occupy or use, permit, suffer or allow the occupancy or use of such building until such time as the building has been declared fit for human habitation, occupancy and use by the Mayor, in writing. The Mayor shall declare such building fit for human habitation, occupancy and use upon proof that the repairs, alterations and improvements required under the order have been made, and the placard shall thereupon be removed forthwith.
 - (3) No person shall deface or remove any such placard from any building so declared unfit for human habitation except the Mayor or his or her duly authorized agent.
- B. If the owner of any building fails to comply with an order to remove or demolish the building, the Mayor may cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for and receipt of bids therefor.

§ 108-9. Lien for costs.

- A. The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this chapter determined in favor of the Township of Montclair, and the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred.
- B. If the building is removed or demolished by the Mayor, he or she shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Tax Assessor or other custodian of the records of tax liens of the Township of Montclair, and a copy thereof shall be forwarded forthwith to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court of New Jersey by the Mayor, shall be secured in such manner as may be directed by such Court and shall be disbursed according to the order or judgment of the Court to the persons found to be entitled thereto by final order or judgment of such Court. Any owner or party in interest may, within 60 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court of New Jersey to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

§ 108-10. Service of complaints and orders.

- A. Complaints or orders issued by the Mayor pursuant to the provisions of this chapter shall be served upon persons either personally or by registered mail. If, however, the whereabouts of any person is unknown and the same cannot be ascertained by the Mayor in the exercise of reasonable diligence, and the Mayor shall make an affidavit to that effect, then the serving of such complaint or order upon said person may be made by publishing the same once each week two successive weeks in a newspaper printed or published in the Township of Montclair or, in the absence of such newspaper, in a newspaper printed and published in Essex County and circulated in the Township of Montclair.

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- B. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order and shall also be duly recorded or lodged for record with the recording officer of the County of Essex.

§ 108-11. Additional remedies.

This chapter shall not be construed to impair or limit in any way the power of the Township to define and declare public nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

§ 108-12. Rights of persons affected.

Any person affected by an order issued by the Mayor shall be entitled to the remedies prescribed by Section 6 of Chapter 112 of the Laws of 1942, as amended and supplemented.⁵⁷

§ 108-13. Appropriation.

The Township Council shall prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of buildings in , for the purpose of determining the fitness of such buildings for human habitation or occupancy or use and for the enforcement and administration of this chapter. The Council shall make such appropriation from its revenues as it may deem necessary for the purposes of this chapter. The Council may accept or apply grants or donations to assist it in carrying out the provisions of this chapter.

§ 108-14. Powers reserved.

Nothing in this chapter shall be construed to abrogate or impair the powers of any department of the Township to enforce any provisions of its Charter or its ordinances or regulations or to prevent or punish the violation thereof.

§ 108-15. 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.

57. Editor's Note: See N.J.S.A. 40:48-2.8.

Chapter 110**CANNABIS**

[HISTORY: Adopted by the Council of the Township of Montclair 10-8-2024 by Ord. No. O-24-32.⁵⁸ Amendments noted where applicable.]

§ 110-1. Statutory authority.

This chapter is authorized pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 to 24:6I-30) and its implementing regulations (collectively, "CUMMA") as applicable to medical cannabis, and the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 016,⁵⁹ and its implementing regulations (collectively, the "Act"), which are hereby incorporated herein by reference, and shall be controlling unless more restrictive standards are prescribed herein. If any provision of this chapter is inconsistent with the statutes and/or regulations of the State of New Jersey, the Act shall govern.

§ 110-2. Definitions. [Amended 4-21-2026 by Ord. No. O-26-09]

For the purposes of this chapter, all terms shall be defined consistent with the Act. The following words and phrases, when used in this chapter, shall have the following meanings:

ADULT-USE CANNABIS or CANNABIS — "Cannabis" as defined by N.J.S.A. 24:6I-33.

ALTERNATIVE TREATMENT CENTER or ATC — An organization issued a permit pursuant to CUMMA to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, as well as any alternative treatment center deemed pursuant to Section 7 of that Act (N.J.S.A. 24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit. An alternative treatment center shall not sell, directly or indirectly, adult-use cannabis to any consumer, person, or entity, unless and until it holds an appropriate state and municipal license.

CANNABIS CONSUMPTION AREA — A designated location operated by a cannabis retailer or permit holder for dispensing or selling cannabis, for which both a state and local endorsement has been obtained, that is either 1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or 2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the premises, at which cannabis items or medical cannabis either obtained from the cannabis retailer or permit holder, or brought by a person to the consumption area, may be consumed. A cannabis consumption area shall be designated by conspicuous signage indicating whether the cannabis consumption area may be used for the on-premises consumption of medical cannabis, adult-use cannabis, or both.

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces adult-use cannabis in this state, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 cannabis cultivator license. A cannabis cultivator shall not operate in the Township unless and until it receives a Category F municipal license.

CANNABIS DELIVERY SERVICE — Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make

58. Editor's Note: This ordinance also repealed former Ch. 110, Cannabis, adopted 8-10-2021 by Ord. No. O-21-17, as amended.

59. Editor's Note: See N.J.S.A. 24:6I-31 et seq.

deliveries of cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 cannabis delivery license. A cannabis delivery service shall not operate in the Township unless and until it receives a Category B municipal license.

CANNABIS DISPENSARY or MEDICAL CANNABIS DISPENSARY — An organization issued a permit by the Commission that authorizes the organization to purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of Subsection i of Section 27 of P.L. 2019, c. 153 (N.J.S.A. 24:6I-20i); and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, or to produce, manufacture, or otherwise create medical cannabis products. A cannabis dispensary or medical cannabis dispensary shall not operate in the Township unless and until it receives written approval from the Township.

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 cannabis distributor license. A cannabis distributor shall not operate in the Township unless and until it receives a Category D municipal license.

CANNABIS ESTABLISHMENT — A cannabis cultivator, cannabis manufacturer, cannabis distributor, cannabis wholesaler, cannabis delivery service or cannabis retailer.

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 cannabis manufacturer license. A cannabis manufacturer shall not operate in the Township unless and until it receives a Category E municipal license.

CANNABIS RETAILER — Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis retailer or a licensed cannabis delivery service to that consumer. This person or entity shall hold a Class 5 cannabis retailer license. A cannabis retailer shall not operate in the Township unless and until it receives a Category A municipal license.

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity

shall hold a Class 3 cannabis wholesaler license. A cannabis wholesaler shall not operate in the Township unless and until it receives a Category C municipal license.

COMMISSION — The New Jersey Cannabis Regulatory Commission as established by N.J.S.A. 24:6I-24.

ENFORCEMENT OFFICER — The Police Department, Health Officer, Zoning Officer, Code Enforcement Officer, Tax Collector, and Municipal Clerk, or their respective designees, are hereby designated and appointed to enforce the provisions of this chapter.

LICENSE — A license issued under P.L. 2021, c. 16, including a license that is designated as either a Class 1 cannabis cultivator license, a Class 2 cannabis manufacturer license, a Class 3 cannabis wholesaler license, a Class 4 cannabis distributor license, a Class 5 cannabis retailer license, or a Class 6 cannabis delivery license.

LICENSEE — A person or entity that holds a license issued under P.L. 2021, c. 16, including a license that is designated as either a Class 1 cannabis cultivator license, a Class 2 cannabis manufacturer license, a Class 3 cannabis wholesaler license, a Class 4 cannabis distributor license, a Class 5 cannabis retailer license, or a Class 6 cannabis delivery license.

MICROBUSINESS — The holder of a license to operate a cannabis business with a smaller footprint than a standard cannabis business and which, with respect to its operations, capacity and quantity of product, may only:

- A. Employ no more than 10 employees;
- B. Operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet;
- C. Possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit;
- D. Acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis;
- E. Acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis or the equivalent amount in any form of manufactured cannabis product or cannabis extract, or any combination thereof; and
- F. Acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis or the equivalent amount in any form of manufactured cannabis product or cannabis extract, or any combination thereof.

MUNICIPAL LICENSE — A local license issued pursuant to this chapter by the Township of Montclair in accordance with § 110-5. An entity that holds a municipal license is a "municipal licensee."

§ 110-3. Conformity with state law.

- A. Nothing in this chapter shall be construed to supersede federal or state laws governing the sale and distribution of cannabis.
- B. All applications for municipal licenses, all municipal licenses issued, and all proceedings under this chapter shall be in accordance with the Act, and all rules, regulations, and all other applicable laws of the State of New Jersey.

§ 110-4. License required.

- A. No person or entity shall operate as a cannabis establishment, cannabis distributor, or cannabis delivery service in the Township unless and until the person or entity has first obtained and received all required license(s) or permit(s) issued by the State of New Jersey in accordance with the Act and all required municipal license(s) issued by the Township pursuant to this chapter.
- B. No person or entity shall operate as an alternative treatment center unless and until the person or entity has first obtained and received a permit issued by the State of New Jersey pursuant to CUMMA and written approval to operate from the Township.
- C. Properly licensed cannabis retailer or cannabis delivery services may deliver in the Township as authorized by state law subject to this chapter.

§ 110-5. Licensing authority.

Local licensing authority. The Township Council is hereby designated to act as the local licensing authority of the Township for all cannabis establishments, cannabis distributors and cannabis delivery services. Under all circumstances in which state law requires communication to the Township by the Commission or any other state agency with regard to the licensing or operation of cannabis establishments, cannabis distributors, or cannabis delivery services by the state, or in which state law requires any review or approval by the Township of any action taken by the state licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Township Council.

§ 110-6. Classification of licenses.

The Township, subject to the provisions of this chapter, may issue the following types of municipal license:

- A. Category A: cannabis retailer;
- B. Category B: cannabis delivery service;
- C. Category C: cannabis wholesaler;
- D. Category D: cannabis distributor;
- E. Category E: cannabis manufacturer; and
- F. Category F: cannabis cultivator.

§ 110-7. Maximum number of licenses. [Amended 4-21-2026 by Ord. No. O-26-09]

The Township may issue a maximum of:

- A. Three Category A municipal licenses.
- B. Three Category B municipal licenses.
- C. Three Category C municipal licenses.
- D. Three Category D municipal licenses.
- E. Three Category E municipal licenses.
- F. Three Category F municipal licenses.

§ 110-8. Application for resolution of municipal support.

- A. Persons or entities wishing to obtain a resolution of municipal support from the Township as required by N.J.A.C. 17:30-7.1, N.J.A.C. 17:30-7.8, and N.J.A.C. 17:30-7.10 shall, within the time period set forth by the state, file an application with the Township Council, on a standardized form established by the Township Council and available in the office of the Township Clerk, and submit the appropriate fee therewith.
- B. The Township Council shall review all applications to ensure compliance with local rules and regulations governing the operation of cannabis establishments, cannabis distributors, and cannabis delivery services, and, when the Council deems appropriate, to provide local support of the application in the form of a Council resolution.
- C. The initial and annual fee for this review shall be as provided in § 110-16.
- D. An application for a resolution of municipal support shall be deemed incomplete and shall not be reviewed or processed unless accompanied by the appropriate fee and, at a minimum, contains the following:
 - (1) The names and residences of all persons financially interested in the business, and the nature and extent of this interest; and, if a corporation or limited-liability company, the names, residences, and citizenships of the officers, directors, managers, and stockholders or members, and whether the applicant (or any of its officers, directors, managers, and stockholders or members) has been convicted of any criminal or quasi-criminal offense, and if so, the date and place of such conviction and the nature of the offense;
 - (2) An attestation that the cannabis establishment, cannabis distributor, or cannabis delivery service will be operated pursuant to all state and local laws, regulations, requirements, rules, ordinances, and codes;
 - (3) A description of the proposed location, including the surrounding area and the suitability or advantages of the proposed location, along with a floor plan and optional renderings or architectural or engineering plans;
 - (4) Any other documents or information the Township Council deems necessary;
 - (5) A determination letter from the Zoning Officer;
 - (6) Proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment (and if the principal place of business is to be located in the Township), cannabis distributor, or cannabis delivery service, which proof may consist of a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon successful licensing.

§ 110-9. License applications.

- A. Prerequisite. As a prerequisite to the Township receiving, acting upon, or considering any application for a municipal license, the applicant shall first obtain:
 - (1) Appropriate zoning approval from the Township Land Use Board with jurisdiction over the land use application; and

- (2) A certificate of zoning compliance issued by the Township Zoning Officer.
- B. Initial application. Persons wishing to obtain a municipal license shall file a municipal license application with the Township Council, on a standardized form established by the Township Council and available in the office of the Township Clerk. The Township Clerk shall establish a reasonable application period and deadline for all applications. A municipal license application shall be deemed incomplete, and shall not be processed, until all documents and application fees are submitted. To be deemed complete, all municipal license applications must be accompanied by the appropriate fees and shall, at a minimum, contain the following:
- (1) A fully completed and signed application form.
 - (2) Proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment (and if the principal place of business is to be located in the Township) cannabis distributor, or cannabis delivery service, which proof may consist of a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon successful licensing.
 - (3) An affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, antidiscrimination, and fair employment practices, and a certification under oath that the applicant will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, gender identity, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
 - (4) Proof of compliance with all applicable Township zoning laws and the location restrictions set forth in the state and Township laws, regulations, requirements, rules, ordinances, or codes.
 - (5) Proof of financial capability to open and operate the cannabis establishment, cannabis distributor, or cannabis delivery service for which the applicant is seeking a municipal license. The applicant shall provide a copy of financial documents and a financial institution letter certifying funds as proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a license. Proofs of financial capability shall be reviewed and assessed by the Township Council.
 - (6) All required fees in accordance with the fee schedule set forth in this chapter. All fees shall be nonrefundable except as expressly provided herein.
 - (7) An attestation that no person proposed to have an ownership interest in the municipal licensee has had any cannabis license or medical cannabis permit suspended or revoked in the State of New Jersey or a subdivision thereof within the preceding five years.
 - (8) The applicant and the contents of the application shall also comply with any and all standards or requirements set forth in the state and Township laws, regulations, requirements, rules, ordinances, or codes.
- C. Renewal applications. Municipal licensees wishing to renew their municipal license in accordance with this chapter shall file a municipal license renewal application with the Township Council, on a standardized form established by the Township Council and available in the office of the Township Clerk. A municipal license renewal application shall be deemed incomplete, and shall not be processed, until all documents and application fees are submitted. To be deemed complete, all municipal license renewal applications must be accompanied by the appropriate fees and shall, at a

minimum, contain the following:

- (1) A fully completed and signed renewal application form.
 - (2) Proof of continued lawful possession of the premises utilized for the regulated activity that shall continue throughout the duration of the municipal license renewal period.
 - (3) A copy of the renewed license issued by the Commission.
 - (4) All required fees in accordance with this chapter.
 - (5) An attestation identifying the community benefits provided by the municipal licensee in the preceding municipal license period, and whether the municipal licensee met or exceeded the community benefits committed to in the initial municipal license application, and if not, the reasons therefor.
 - (6) An attestation that all information provided on the municipal licensee's preceding municipal license application for the municipal license sought to be renewed remains materially correct and complete, or if there is a material change or inaccuracy from the information supplied in the preceding municipal license application, an attestation describing the change or inaccuracy, along with the corrected, accurate, and complete information.
 - (7) An attestation that the municipal licensee has not violated any applicable state or local law, regulation, requirement, rule, ordinance, or code in the preceding municipal license period, or, if such attestation cannot be made, an attestation describing the violation(s), along with any mitigating circumstances to be considered by the Township Council, and an attestation that the municipal license holder shall comply with all applicable state and local laws, regulations, requirements, rules, ordinances, and codes.
 - (8) An attestation that no person having an ownership interest in the municipal licensee has had any cannabis license or medical cannabis permit suspended or revoked in the State of New Jersey or a subdivision thereof within the preceding municipal license period, or, if such attestation cannot be made, an attestation describing the circumstances of such suspension(s) and/or revocation(s), along with any mitigating circumstances to be considered by the Township Council.
 - (9) An attestation that the ownership of the municipal licensee has not changed, been transferred, or otherwise modified within the preceding municipal license period, or, if such attestation cannot be made, an attestation describing the changes in ownership of the municipal licensee, along with the dates of such changes.
- D. Continuing obligation. All applicants and municipal licensees shall promptly advise the Township of any material changes or omissions to the information contained in any municipal license application, and of any violation of any applicable state and local law, regulation, requirement, rule, ordinance, or code, or the suspension, expiration, surrender, or revocation of any state or local license, permit, or approval to operate.

§ 110-10. Class 1/Category F cannabis cultivators and Class 2/Category E cannabis manufacturers.

Class 1/Category F cannabis cultivators and Class 2/Category E cannabis manufacturers shall be permitted as provided in Montclair Code Chapter 347, Zoning, subject to the following:

- A. Buildings. All facilities shall be enclosed in heated/air-conditioned buildings. Notwithstanding the

foregoing, Class 1 cannabis cultivator licensees may be enclosed in a secure greenhouse.

- B. No public access. In no event shall a cannabis cultivator or a cannabis manufacturer be open to the public.
- C. Odor control. The facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that shall be paid for by the cannabis business.
- D. Records. Records of all cannabis purchased and sold must be made available upon 14 days' advance notice when called for by the Township, or any other authorized person or entity. These records include, but are not limited to, METRIC transmittals, receipts, invoices, quarterly sales tax returns (ST-50), monthly sales tax return (Form ST-51) and all other records relating to sale and purchase of cannabis products.
- E. Security plan. Class 1 cannabis cultivators and Class 2 cannabis manufacturers shall submit a security plan for review to the Township detailing all security measures taken to ensure community safety and to eliminate unauthorized access to the premises.
- F. Signage. Signs shall be limited to the address, legal name and emergency contact information. All signs shall comply with Montclair Code Chapter 347, Article XVIII, Signs, § 347-105 et seq., and state law.

§ 110-11. Class 3/Category C cannabis wholesalers, Class 4/Category D cannabis distributors, and Class 6/Category B cannabis delivery services.

Class 3/Category C cannabis wholesalers, Class 4/Category D cannabis distributors, and Class 6/Category B cannabis delivery services shall be permitted as provided in Montclair Code Chapter 347, Zoning, subject to the following:

- A. Buildings. All facilities shall be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses or outdoors.
- B. Hours. Deliveries of retail cannabis to the public by a Class 6 cannabis delivery service is permitted between the hours of 12:00 a.m. and 11:59 p.m., Sunday through Saturday.
- C. Identification plan. A Class 6 cannabis delivery service shall submit an identification plan for review to the Township detailing all measures taken to ensure compliance that patrons are at least 21 years of age.
- D. No public access. In no event shall a Class 3 cannabis wholesaler, Class 4 cannabis distributor, or Class 6 cannabis delivery service be open to the public.
- E. Odor control. The facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that should be paid for by the property owner.
- F. Records. Records of all cannabis purchased and sold must be made available upon 14 days' advance notice when called for by the Township, or any other authorized person or entity.

- G. Security plan. Class 3 cannabis wholesalers, Class 4 cannabis distributors, and Class 6 cannabis delivery services shall submit a security plan for review to the Township detailing all security measures taken to ensure community safety and to eliminate unauthorized access to the premises.
- H. Signage. Signs shall be limited to the address, legal name or any registered alternate name, and emergency contact information. All signs shall comply with Montclair Code Chapter 347, Article XVIII, Signs, § 347-105 et seq., and state law.

§ 110-12. Class 5/Category A cannabis retailers.

Class 5/Category A cannabis retailers shall be permitted as provided in Montclair Code Chapter 347, Zoning, subject to the following:

- A. Hours: No cannabis retailer shall be open to the public between the hours of 11:00 p.m. and 8:00 a.m., Monday through Sunday.
- B. Identification plan: Class 5 cannabis retailers shall submit an identification plan for review to the Township detailing all measures taken to ensure compliance that patrons are at least 21 years of age.
- C. Odor control: The Class 5 cannabis Retail facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that should be paid for by the cannabis business property owner.
- D. Records: Records, including but not limited to NJ State Sales and Use Tax Form ST-50, of all cannabis purchased and sold must be made available upon 14 days' advance notice when called for by the Township, or any other authorized person or entity.
- E. Security plan: Class 5 cannabis retailers shall submit a security plan for review to the Township detailing all security measures taken to ensure community safety and to eliminate unauthorized access to the premises.
- F. Signage: Signs shall be limited to the address, legal name and emergency contact information. All signs shall comply with Montclair Code Chapter 347, Article XVIII, Signs, § 347-105 et seq., and state law.

§ 110-13. Alternative treatment centers.

Alternative treatment centers shall be permitted as provided in Montclair Code Chapter 347, Zoning, subject to meeting all requirements of the laws and regulations of the State of New Jersey. In the event that an alternative treatment center holds a Class 5 cannabis retailer license, that alternative treatment center shall also be required to comply with all state and Township laws, regulations, requirements, rules, ordinances, and codes applicable to cannabis retailers.

§ 110-14. Evaluation of license applications. [Amended 4-21-2026 by Ord. No. O-26-09]

The Township Council shall evaluate all new applicants for a local municipal license and issue a decision on the application at its sole discretion after consideration and evaluation of the following criteria (total points 100):

- A. Applicant's, owners' and principals' qualifications and experience operating in highly regulated

industries, including cannabis, medical cannabis, health care, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principals (25 points, not to exceed 500 words);

- B. Applicant's, owners' and principals' qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement, and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management (15 points, not to exceed 500 words);
- C. Applicant's, owners' and principals' demonstrated commitment to providing community benefits, including but not limited to the Township residents and surrounding service area. This may be evidenced by letters in support and agreements, a local workforce hiring and development plan, community service, and/or collaborations with a university or specialized training facility (15 points, not to exceed 2,500 words);
- D. Applicant's, owners' and principals' demonstrated compliance with current state and local laws, regulations, requirements, rules, codes, ordinances, including but not limited to those governing state licensure of cannabis and/or medical cannabis (15 points, not to exceed 500 words);
- E. Summary of the applicant's, owners' and principals' environmental impact and sustainability plan, including but not limited to water and electric usage, odor control, and waste management, customer experience, etc., whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey State environmental regulators for innovation in sustainability; and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system (15 points, not to exceed 500 words);
- F. Applicant's, owners', and principals' demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant entity or its parent company holds any certifications as a New Jersey minority-owned, women-owned, or veteran-owned business (15 points, not to exceed 500 words).

§ 110-15. Term of license; license renewals. [Amended 4-21-2026 by Ord. No. O-26-09]

- A. Any municipal license issued pursuant to this chapter shall be valid for a period of one year from the date of issuance and shall be renewed in accordance with the provisions of this chapter.
- B. Any annual renewal application may be submitted up to 90 days, but in no event later than 60 days, prior to the expiration of a municipal license. Once an application has been submitted, a licensed cannabis establishment may continue to operate so long as the applicant has applied for renewal of his one-year state license by the NJ State Cannabis Regulatory Commission ("CRC") and a decision is pending. In the event the CRC denies the renewal application, the applicant shall notify the Township Clerk of the denial and the municipal license shall automatically be deemed to have expired as of the date that the CRC license expired, nunc pro tunc.
- C. Applicants seeking renewal of the same type of municipal cannabis license or issuance of an additional municipal license of the same type shall comply solely with Subsection D of § 110-14 above by submitting a statement concerning the applicant's current compliance with state and local laws from the period from when they received their original license to the submission of the new

application. Applicants seeking an additional license in a different category shall solely be required to comply with both Subsections D and E. Initial application fees in addition to the renewal fees will apply to any additional license application submitted in accordance with this chapter.

- D. The one-year period of the renewed municipal license shall be commensurate with the date that the NJ State Cannabis Regulatory Commission ("CRC") approves the applicant's renewal license.
- E. Renewal of any municipal cannabis license shall be governed by any Code amendments, additional restrictions or changes in regulations adopted since the previous municipal license was issued or renewed.
- F. Change of location of any cannabis business license or modification to expand a cannabis licensed premises shall first require a zoning determination letter, followed by Township Planning Board site plan approvals and the payment of a change of location/expansion fee of \$2,500. After issuance of site plan approval from the Township Planning Board and payment of the location/expansion fee, the Township Council shall adopt a resolution of support for the location change to the licensee's new location for submission to the NJ State Cannabis Regulatory Commission (CRC) for its approval of said location change. The licensee shall not be permitted to change location unless and until final written approval issued by the CRC is submitted to the Township Clerk, and then, final written approval to change location is issued by the Township Manager or his/her designee.
- G. Every municipal license shall automatically expire at the end of its term, unless it is renewed annually in accordance with this chapter.

§ 110-16. Fees.

- A. The nonrefundable initial application fee for a resolution of municipal support of cannabis establishments and cannabis distributors shall be \$15,000 and shall be paid concurrently with submission of the application for a resolution of municipal support.
- B. The applicant and proposed municipal licensee shall submit all required nonrefundable fees according to the following schedule.

License	Initial Application Fee	Annual Municipal License and Renewal Application Fee
Retailer	\$15,000	\$15,000
Manufacturer	\$15,000	\$15,000
Cultivator	\$15,000	\$15,000
Wholesaler	\$15,000	\$15,000
Distributor	\$15,000	\$15,000
Delivery service	\$5,000	\$5,000
Microbusiness	\$7,500	\$7,500

- C. The initial application and annual municipal license renewal application fees shall be submitted concurrently with the applicable municipal license application form and accompanying documents and shall be paid to the Township of Montclair and delivered to the Township Clerk. The initial and annual municipal license renewal application fees are nonrefundable.

§ 110-17. Conversion of alternative treatment centers.

This chapter shall not be construed to prevent the conversion of an alternative treatment center to a cannabis establishment, cannabis distributor, or cannabis delivery service; provided, however, that any such alternative treatment center must first obtain written approval from the Township and the State of New Jersey, and receive all appropriate state and municipal licenses and/or permits prior to operating as a converted cannabis establishment, cannabis distributor, or cannabis delivery service. The fee for the conversion to an alternative treatment center (ATC) is \$15,000. The conversion fee shall be submitted with its application for conversion to an ATC and is nonrefundable.

§ 110-18. Cannabis use on premises prohibited.

No cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises of a cannabis establishment, cannabis distributor, or cannabis delivery service, other than in an authorized cannabis consumption area.

§ 110-19. Cannabis consumption areas prohibited.

Cannabis consumption areas are prohibited in the Township.

§ 110-20. License posting.

All state and municipal licenses must be posted under glass or equivalent protective surface and shall be posted on the premises in a clear and conspicuous manner so that the same may be easily observed.

§ 110-21. Transfer of license.

- A. No municipal license shall be transferred, in whole or in part, without CRC approval, documentary proof that the new owner(s) meets all the state and Township requirements for ownership of a cannabis business as outlined in this chapter, and with the prior written approval by a resolution of the Township Council. The transferee shall be required to submit an application for transfer in the form prescribed by the Township with all supporting documentation. Preference is given to new owner(s) who shall maintain the same classification of cannabis business. For purposes of this chapter, any change in control or ownership of the licensee, whether resulting from a merger, consolidation, stock transfer, asset sale, or otherwise, shall be deemed a transfer that requires a resolution with the prior written consent of the Township Council, and no successor in interest of a municipal licensee shall acquire any rights or powers without the prior written consent of the Township Council and submission of an attestation by the successor in interest in compliance with § 110-9B(7) of this chapter.
- B. A fee of \$15,000 per municipal license, in addition to any other fees permitted or required by this chapter, shall be paid to the Township as a condition of approval of a permitted municipal license transfer. No transfer shall be effective, and no new municipal license shall be issued to the transferee, unless and until the fees are received by the Township and the municipal licensee has received the Township's written consent by resolution of the Township Council.

§ 110-22. Copy of license renewal to Township.

Within 14 days of receiving a license renewal, a cannabis establishment, cannabis distributor, or cannabis delivery service shall submit a copy thereof to the Township.

§ 110-23. Disciplinary actions; sanctions; violations and penalties.

- A. Violations: Unless otherwise provided by state law, any violation of any provision of this chapter shall, upon conviction, be punishable by up to the maximum penalties permitted by N.J.S.A. 40:49-5, which currently consist of a fine of up to \$2,000 and/or by imprisonment for a term not exceeding 90 days and/or by a period of community service not exceeding 90 days, in the discretion of the Municipal Court. Each and every violation shall be deemed and taken to be a separate and distinct offense. Each day that a violation is committed, exists, or continues shall be deemed and taken to be a separate and distinct offense. The minimum fine for a violation of any provision of this chapter shall be \$100, unless specifically stated to the contrary herein.
- B. Summary suspensions.
- (1) Notwithstanding the foregoing, any enforcement officer may order the immediate summary suspension of a municipal license for any one of the following grounds:
 - (a) Any deliberate and willful violation of any applicable law, regulation, requirement, rule, ordinance, or code;
 - (b) Three or more violations of any applicable law, regulation, requirement, rule, ordinance, or code;
 - (c) Engaging in or permitting acts that jeopardize the public health, safety, and/or general welfare of the Township and/or its citizens;
 - (d) Any material misrepresentation or omission on the municipal licensee's initial or renewal municipal license application;
 - (e) The failure of the municipal licensee to inform the Township of any material change to any information contained in the municipal licensee's initial or renewal municipal license application;
 - (f) The failure to pay the appropriate cannabis taxes as per Chapter 309 of this Code for three consecutive quarters;
 - (g) The revocation, suspension, or nonrenewal of any state license or municipal license or permit by the Commission or the Township, or any final non-appealable revocation or permanent suspension or nonrenewal of a municipal license or permit issued by another New Jersey municipality; or
 - (h) The failure to comply with any renewal requirements or provide copies of state-issued licenses or permits when due; or
 - (i) Operating, selling, delivering, manufacturing, cultivating, and/or gifting cannabis by a cannabis business not licensed to operate or conduct the cannabis business activity that requires a separate municipal cannabis license in the Township.
 - (2) The summary suspension order shall be in writing issued by the enforcement officer and shall state the reasons therefor. A municipal licensee subject to a summary suspension order shall immediately cease engaging in all regulated activities until such time that the municipal license is reinstated by the Township Council, or the summary suspension order is withdrawn by the enforcement officer. A summary suspension order shall remain in effect unless and until modified as set forth in this section.

- C. Notice of intent to suspend or revoke. Notwithstanding the foregoing, any enforcement officer may issue a notice of intent to suspend or revoke a municipal license for a violation by the municipal licensee of any provision of this chapter, or whenever it shall appear that the municipal licensee is conducting its regulated activity in violation of any state or local laws, regulations, requirements, rules, ordinances, or codes, or in a manner contrary to the public health, safety, and welfare of the Township and/or its citizens, or for any of the grounds enumerated in Subsection B of this section. The notice of intent to suspend or revoke shall contain a brief statement of the grounds to be relied upon for revoking or suspending the municipal license.
- D. Response to summary suspension order or notice of intent to suspend or revoke. Upon receipt of a summary suspension order or a notice of intent to suspend or revoke, the municipal licensee may, within five business days, file with the Township Manager a written request for a hearing, and the hearing shall proceed as set forth in Subsection E of this section. If the municipal licensee does not request a hearing, the municipal licensee shall be deemed in default with no right to a hearing notwithstanding the provisions of Subsection E herein, and the Township Manager shall proceed to investigate and issue a report and recommendation to the Township Council without a hearing within 35 days of issuance of the summary suspension order or notice of intent to suspend or revoke. Notwithstanding anything to the contrary herein, if the municipal licensee completely cures all of the matters described in the summary suspension order or the notice of intent to suspend or revoke and provides proof of same to the enforcement officer's satisfaction prior to the time that the Township Manager issues its report and recommendation to the Township Council, the enforcement officer may, in its sole discretion, withdraw the summary suspension order or the notice of intent to suspend or revoke and notify the Township Manager of such withdrawal.
- E. Conduct of hearing. Any hearing to be conducted before the Township Manager under this section shall occur as soon as reasonably practicable at the Township Manager's sole discretion but in no event later than four months after receipt of a request for such hearing. Written notice of the time and place of such hearing shall be served upon the municipal licensee at least five days' prior to the date set for such hearing. Notice of the hearing may be given either by personal delivery thereof to the municipal licensee or be deposited with the United States Postal Service in a sealed envelope, postage prepaid, addressed to the municipal licensee at the business address appearing upon said municipal license. At the hearing, the municipal licensee and enforcement officer issuing the summary suspension order or notice of intent to suspend or revoke shall have an opportunity to be heard and present evidence and witnesses in support or defense of the grounds stated in the summary suspension order and/or notice of intent to suspend or revoke. The formal rules of evidence shall not apply to the conduct of the hearing, and the Township Manager shall determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the Township Manager to be cumulative or irrelevant. The municipal licensee may agree to waive the opportunity to present evidence at the hearing and instead present its position by documentary submission only on notice to the enforcement officer with an opportunity to respond as scheduled by the Township Manager. The Township Manager shall, within 10 days of the conclusion of the hearing, issue a report to the Township Council concerning the information presented at the hearing and the grounds stated in the summary suspension order and/or the notice of intent to suspend or revoke and recommend whether any discipline should be imposed upon the municipal licensee. The Township Council, in its sole discretion, shall have the right to appoint an independent hearing officer to preside over the hearing in lieu of the Township Manager.
- F. Final order. Within 45 days of the Township Manager's issuance of its report and recommendation, the Township Council shall convene, and upon due consideration of the Township Manager's report and recommendation, and after deliberation, may overturn a summary suspension order and/or

dismiss a notice of intent to suspend or revoke, or if the Township Council concludes that the charges contained in any summary suspension order and/or notice of intent to suspend or revoke have been sustained and substantiated, it may revoke or suspend the municipal license. The Township Council may, in accordance with N.J.S.A. 40:48-25, issue subpoenas for witnesses or documents to aid in its consideration and deliberation. The Township Council shall memorialize its decision and the reasons therefor by resolution, which resolution shall set forth the Township Council's findings and conclusions regarding the matter. Any final order of the Township Council shall be final and conclusive. Review of any final order issued by the Township Council shall be sought by an action in lieu of prerogative writs in the Superior Court, Law Division.

- G. All disciplinary measures contained in this section are in addition to the Township's right to seek all other available remedies, including actions in law or equity.

§ 110-24. Inactive licenses.

- A. The Township Council, or its designee, may suspend or revoke any municipal license upon 30 days' notice to the licensee if:
- (1) The licensed premises fails to commence its cannabis business operations within one year of receiving its municipal license; or
 - (2) Following the commencement of its cannabis business operations, the licensed premises become inactive or unoccupied for at least three months.
- B. Notwithstanding the foregoing, a licensee may appeal to the Township Council which may in its discretion grant a reasonable extension of up to nine months for good cause shown. The fee to appeal for an extension shall be \$2,500. A licensee may request a hardship waiver or reduction of said fee which the Township Council may grant at its sole discretion.
- C. In the event a license is revoked or forfeited, the Township Council may, in its sole discretion, award the license to a qualified applicant that meets the application requirements in § 110-9 and evaluation criteria in § 110-14 with the highest ranking in the last round of application evaluations completed by the Township Council or advertise a notice for the submission of applications to award said cannabis license in accordance with the provisions of this Chapter 110 (cannabis) for evaluating and awarding a cannabis business license.

§ 110-25. Loss of state license.

A municipal license shall be automatically suspended if and when the corresponding license or permit for the licensee or subject location expires or is suspended by the Commission or any other state authority having jurisdiction thereover. While not a condition precedent to or requirement for the automatic suspension, after receiving notice of the license or permit expiration or suspension, the Manager shall confirm the suspension of the municipal license in writing to the licensee. If the municipal license remains suspended for at least six months, the Township Council may revoke the municipal license. A municipal license shall be automatically revoked, without the need for notice by the Township to the municipal licensee, if and when the corresponding license or permit for the licensee or subject location is surrendered or revoked by the Commission or any other state authority having jurisdiction thereover.

§ 110-26. Rules and regulations.

The Township has the authority to adopt any rules and regulations it deems necessary or appropriate to implement this chapter.

§ 110-27. Repealer; severability.

All ordinances or parts of ordinances inconsistent herewith are repealed as to such inconsistencies. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

§ 110-28. Compliance with law.

All cannabis establishments, cannabis distributors, and cannabis delivery services shall comply with all applicable state and local laws, regulations, requirements, rules, ordinances, and codes.

§ 110-29. When effective.

This chapter shall take effect as provided by law.

MONTCLAIR CODE

Chapter 117

CONDOMINIUM AND COOPERATIVE CONVERSIONS

[HISTORY: Adopted by the Council of the Township of Montclair 10-12-1982 by Ord. No. 82-36 (Ch. 90 of the 1979 Code). Amendments noted where applicable.]

§ 117-1. Application fee. [Amended 3-31-1987 by Ord. No. 87-13; 5-17-1988 by Ord. No. 88-22]

The Municipal Clerk, acting as the administrative officer pursuant to the New Jersey Condominium Act and the Senior Citizens and Disabled Protected Tenancy Act,⁶⁰ and the rules and regulations enacted pursuant thereto, is hereby authorized to charge the owners of a building being converted pursuant to those statutes a fee of \$150 for each application submitted to and processed by the Municipal Clerk.

§ 117-2. Appeals.

- A. Any person aggrieved by a determination of the administrative officer shall be entitled to an administrative hearing before such officer or before a hearing officer designated by such officer.
- B. Application for an administrative hearing shall be made within 10 days of receipt by the aggrieved person of notice of such determination. Each notice of appeal will be accompanied by a check made payable to the Township of Montclair in the amount of \$50.
- C. All notices of determinations issued by an administrative officer shall advise the recipient of the right to a hearing and of the ten-day application requirement and shall give the name and address of the person to whom applications for hearings are to be made.
- D. Administrative hearings shall be held within 10 days of application therefor, except that the administrative officer may hold hearings later due to extenuating circumstances, such as, without limitation, a large number of applications for hearings being received within a short period of time.
- E. Notice of administrative hearings shall be given to all known parties in interest, all of whom shall have the opportunity to testify and present evidence and to examine adverse witnesses and evidence, including, without limitation, application forms and supporting documentation previously submitted to the administrative agency or officer.
- F. A sound recording of the administrative hearing shall be made, and a transcript shall be obtainable, in accordance with the rules applicable to municipal courts.
- G. Within 10 days of the hearing, the administrative officer shall issue a written final decision either upholding or revising the original determination and stating the reasons therefor.

60. Editor's Note: See N.J.S.A. 46:8B-1 et seq. and 2A:18-62.22 et seq.

Chapter 121**CONSTRUCTION CODES, UNIFORM**

[HISTORY: Adopted by the Council of the Township of Montclair 3-25-1997 by Ord. No. 97-11. Amendments noted where applicable.]

GENERAL REFERENCES

Air conditioning and refrigeration — See Ch. 67.

Signs — See Ch. 277.

Fire prevention — See Ch. 153.

Site plan review — See Ch. 281.

Fire safety — See Ch. 157.

Subdivision of land — See Ch. 301.

Multifamily buildings — See Ch. 213.

Swimming pools — See Ch. 305.

Sewers — See Ch. 269.

Zoning — See Ch. 347.

§ 121-1. Enforcing agency established; officials.

- A. There is hereby established in the Township of Montclair a State Uniform Construction Code enforcing agency to be known as Construction Code Enforcing Division, consisting of a Construction Official, Electrical Subcode Official, Building Subcode Official, Plumbing Subcode Official, Fire Subcode Official, Elevator Subcode Official, Technical Assistant, Control Person and such other subcode officials as the Commissioner of the Department of Community Affairs, State of New Jersey, shall hereafter adopt as part of the State Uniform Construction Code. The Construction Code Official shall be the chief administrator of the enforcing agency. The Construction Code Official, all subcode officials, all inspectors and all other personnel shall be appointed by the Township Manager. **[Amended 9-2-1997 by Ord. No. 97-40]**
- B. Each official position created in Subsection A herein shall be filled by a person qualified for such position pursuant to P.L. 1975, c. 217, as amended,⁶¹ and N.J.A.C. 5:23, provided that, in lieu of any particular subcode official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. Pursuant to P.L. 1975, c. 217, and N.J.A.C. 5:23, one such official position may be held by the same person, provided that such person is qualified.

§ 121-2. Appeals.

Appeals from decisions of the enforcing agency shall be made to the Essex County Construction Board of Appeals as provided in N.J.S.A. 52:27D-127.

§ 121-3. Contractor licensing.

Plumbing and electrical work shall not be undertaken except by persons licensed to perform such work pursuant to law, except in the case of a single-family homeowner on the homeowner's dwelling.

§ 121-4. Fee schedule.

61. Editor's Note: See N.J.S.A. 52:27D-119 et seq.

- A. Plan review fee. The fee for plan review shall be 20% of the amount to be charged for a new construction permit. The fee is nonrefundable.
- B. The basic construction permit fee shall be the sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and pieces of equipment, the number of electrical fixtures and devices, the number of sprinklers, standpipes and detectors (smoke and heat), at the unit rates provided herein plus any special fees. The minimum permit fee for a basic construction permit covering any or all of the building, plumbing, electrical and fire protection work shall be \$85. **[Amended 6-10-1997 by Ord. No. 97-24; 9-2-1997 by Ord. No. 97-40; 9-19-2000 by Ord. No. 00-46; 2-20-2018 by Ord. No. O-18-007; 2-25-2025 by Ord. No. O-25-04]**

(1) Building volume or cost. The permit fees for new construction or alteration are as follows:

- (a) Permit fees for new construction shall be based upon the volume of the structure. Volume shall be computed in accordance with N.J.A.C. 5:23-2.28. The new construction fee shall be in the amount of \$0.038 per cubic foot of volume for buildings and structures of all use groups and types of construction as classified and defined in Articles 3 and 4 of the Building Subcode. The minimum fee for new construction shall be \$175.
- (b) Renovations, alteration and repairs.
 - [1] Permit fees for renovations, alteration and repairs shall be based upon the estimated cost of the work.
 - [a] The fee shall be in the amount of \$34 per \$1,000.
 - [b] From \$50,001 to and including \$100,000, the additional fee shall be in the amount of \$26 per \$1,000 of the estimated cost above \$50,000.
 - [c] Above \$100,000, the additional fee shall be in the amount of \$22 per \$1,000 of the estimated cost above \$100,000.
 - [2] For the purpose of determining estimated cost, the applicant shall submit to the Construction Official such cost data as may be available produced by the architect or engineer of record or by a recognized estimating firm or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The Construction Official shall make the final decision regarding estimated cost.
- (c) Permit fees for additions shall be computed on the same basis as for new construction for the added portion, except that the minimum fee for an addition shall be \$150.
- (d) Permit fees for combination renovations and additions shall be computed as the sum of the fees computed separately in accordance with Subsection B(1)(a) and (b) above.
- (e) In order to provide for the training and certification and technical support programs required by the Act,⁶² the enforcing agency shall collect a surcharge fee to be based upon the volume of new construction within the township. Said fee shall be accounted for and forwarded to the Bureau of Housing Inspection. This fee shall be in the amount as set forth in N.J.A.C. 5:234.19(b). For the purpose of calculating this fee, volume shall be computed in accordance with N.J.A.C. 5:23-2.28.

62. Editor's Note: See N.J.S.A. 52:27D-119 et seq.

- (f) The fee for the removal or abandonment of any fuel storage tank shall be \$150.
- (2) Plumbing fixtures and equipment.
 - (a) For the purpose of computing permit fees:
 - [1] Plumbing fixtures shall include but not be limited to stacks, lavatories, kitchen sinks, slop sinks, sinks, urinals, water closets, bathtubs, shower stalls, laundry tubs, floor drains, washing machine connections and similar fixtures.
 - [2] Plumbing appurtenances shall include but not be limited to devices, a manufactured device or an on-the-job assembly of component parts, which adjunct to the basic piping system and plumbing fixtures, pressure reducing valves, backflow prevention devices, back water valves, vacuum breakers, grease traps, interceptors and similar devices.
 - [3] Plumbing appliances shall include but not be limited to hot water heaters, tankless heaters, heat exchangers, water storage tanks, solar panels, water pressure booster systems, sump pumps, dishwashers, ice makers, instant hot water coils, sewerage ejectors, garbage disposal units, sterilizers, aspirators.
 - (b) The permit fee for the installation or replacement of a plumbing fixture shall be \$20 for each plumbing fixture.
 - (c) The permit fee for hot water boilers, water cooled air-conditioning units and steam boilers shall be \$75.
 - (d) The permit fee for the installation or replacement of a plumbing appurtenance and/or special device shall be \$75 per plumbing appurtenance and/or special device, except that the fee for backflow preventors that do not require ongoing inspection shall be \$20.
 - (e) The permit fee for the installation or replacement of a plumbing appliance shall be \$50.
 - (f) The permit fee for the installation of a house or building sewer and/or water service pipe is \$65.
 - (g) The permit fee for the installation or replacement of subsoil drains shall be \$20.
 - (h) The permit fee for gas piping is \$46.
 - (i) The permit fee for the installation or replacement of oil lines and/or oil tank piping shall be \$46.
 - (j) The minimum fee for any permit issued for the plumbing subcode shall be \$85.
- (3) Electrical fixtures and devices. The permit fees shall be as follows:
 - (a) From one to 50 receptacles or fixtures, the fee shall be in the amount of \$75; for each 25 receptacles or fixtures, in addition to this, the fee shall be in the amount of \$18. For the purpose of computing this fee, receptacles or fixtures shall include lighting outlets, wall switches, fluorescent fixtures, convenience receptacles or similar fixtures and motors or devices of less than one horsepower or one kilowatt.
 - (b) For each motor or electric device greater than one horsepower and less than or equal to 10 horsepower and for transformers and generators greater than one kilowatt and less than or

equal to 10 kilowatts, the fee shall be \$50.

- (c) For each motor or electrical device greater than 10 horsepower and less than or equal to 50 horsepower, for each service panel, service entrance or subpanel less than or equal to 200 amperes and for all transformers and generators greater than ten kilowatts and less than or equal to 45 kilowatts, the fee shall be \$125.
 - (d) For each motor or electrical device greater than 50 horsepower and less than or equal to 100 horsepower, for each service panel, service entrance or subpanel greater than 200 amperes and less than or equal to 1,000 amperes, and for transformers and generators greater than 45 kilowatts and less than or equal to 112.5 kilowatts, the fee shall be \$150.
 - (e) For each motor or electrical device greater than 100 horsepower, for each service panel, service entrance or subpanel greater than 1,000 amperes and for each transformer or generator greater than 112.5 kilowatts, the fee shall be \$475.
 - (f) For the purpose of computing these permit fees, all motors, except those in plug-in appliances, shall be counted, including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electrical current.
 - (g) The minimum fee for any permit issued for the electrical subcode shall be \$85.
 - (h) For in-ground swimming pools and spas bonding, one receptacle, one motor, the fee shall be \$100.
 - (i) For hydromassage tubs, etc., the fee shall be \$100.
- (4) Fire protection and other hazardous equipment. For sprinklers, standpipes, detectors (smoke and heat), pre-engineered suppression systems, gas- and oil-fired appliances not connected to the plumbing system, kitchen exhaust systems, incinerators and crematoriums:
- (a) The fee for 20 or fewer heads or detectors shall be \$100; for 21 to and including 100 heads or detectors, the fee shall be \$175; for 101 to and including 200 heads or detectors, the fee shall be \$300; for 201 to and including 400 heads or detectors, the fee shall be \$768; for 401 to and including 1,000 heads or detectors, the fee shall be \$1,060; for 1,001 heads and over the fee shall be \$1,343. In computing fees, each sprinkler head and each detector shall be each counted as one.
 - (b) The fee for each standpipe shall be \$300.
 - (c) The fee for each pre-engineered system shall be \$150.
 - (d) The fee for each gas- or oil-fired appliance not connected to the plumbing system shall be \$75.
 - (e) The fee for each kitchen exhaust system (commercial) shall be \$150.
 - (f) The fee for each incinerator shall be \$500.
 - (g) The fee for each crematorium shall be \$750.
 - (h) The installation of any fuel storage tank shall be \$150.
 - (i) For each vapor recovery system, the fee shall be \$100.

- (5) Elevator registration and inspection fees.
- (a) Elevators in the Township of Montclair shall be installed and inspected pursuant to N.J.A.C. 5:23-12 et seq.
 - (b) Elevator registration shall be required pursuant to N.J.A.C. 5:23-12.4 and 12.5.
 - (c) All plan reviews for the installation of new elevators shall be done pursuant to N.J.A.C. 5:23-12 et seq. The fee for plan review for elevator devices in structures of Group R-3, R-4, or R-5, and for elevator devices wholly within dwelling units in structures of Group R-2, shall be \$70 for each device. The fee for plan review for elevator devices in structures of Groups other than R-3, R-4, or R-5 and devices in structures of Group R-2 exempted above shall be \$365 for each device.
 - (d) The fee for performing inspection of minor work shall be \$100.
 - (e) For the required routine and periodic inspections, tests and permits for elevator devices in structures not of Group R-3, R-4, or R-5, or otherwise exempt devices in structures of Group R-2, fees shall be as follows:
 - [1] The fee for the six-month routine inspection of escalators shall be \$250.
 - [2] The fee for the one-year periodic inspection and witnessing tests of elevator devices shall be as follows:
 - [a] Traction and winding drum elevators:
 - [i] One to 10 floors: \$500.
 - [ii] Over 10 floors: \$550.
 - [b] Hydraulic elevators: \$375.
 - [c] Roped hydraulic elevators: \$400.
 - [d] Moving walks: \$600.
 - [e] Dumbwaiters: \$200.
 - [f] Manlifts, stairway chairlifts, inclined and vertical wheelchair lifts: \$250.
 - [g] Escalators: \$600.
 - (f) Additional yearly periodic inspection charges for elevator devices equipped with the following features shall be as follows:
 - [1] Oil buffers (charge per oil buffer): \$100.
 - [2] Counterweight governor and safeties: \$200.
 - [3] Auxiliary power generator: \$100.
 - (g) The fee for the three-year or five-year inspection of elevator devices shall be as follows:
 - [1] Traction and winding drum elevators:

- [a] One to 10 floors (five-year inspection): \$700.
 - [b] Over 10 floors (five-year inspection): \$800.
- [2] Hydraulic and roped hydraulic elevators:
 - [a] Three-year inspection: \$500.
 - [b] Five-year inspection: \$500.
- (6) Certificates and other permits. The fees for certificates and other permits are as follows:
 - (a) The fee for a demolition or removal permit shall be \$100 for a structure of less than 5,000 square feet in area and less than 30 feet in height; \$150 for one- or two-family residences (Use Group R-4 of the Building Subcode) and structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d) used exclusively for storage or grain or sheltering of livestock; and \$150 per story for all other use groups.
 - (b) The fee for a permit to construct a sign shall be in the amount of \$1 per square foot of surface area of the sign, computed on one side only; for double-faced signs, the minimum fee shall be \$65.
 - (c) The fee for a certificate of occupancy shall be in the amount of 10% of the new construction permit fee which would be charged by the enforcing agency pursuant to these regulations. The minimum fee shall be \$150, except for one- and two-family structures of less than 5,000 square feet in area and less than 30 feet in height, and structures on farms pursuant to N.J.A.C. 5:23-3.2(d), for which the minimum fee shall be \$85.
 - (d) The fee for a certificate of occupancy granted pursuant to a change of use group shall be \$175.
 - (e) The fee for a certificate of continued occupancy shall be \$175.
 - (f) The fee for an application for a variation in accordance with N.J.A.C. 5:23-2.10 shall be \$750 for Class 1 structures and \$125 for Class 2 structures and Class 3 structures. The fee for resubmitting an application for a variation shall be \$225 for Class 1 structures and \$75 for Class 2 and Class 3 structures.
 - (g) The fee for a plan review of a building for compliance under the alternate systems and nondepletable energy source provisions of the energy subcode shall be \$300 for one- and two-family homes and for light commercial structures having the indoor temperature controlled from a single point, and \$1,600 for all other structures.
 - (h) The permit fee for asbestos and/or lead abatement removal from any building or structure shall be \$190.
 - (i) The permit fee for tents, in excess of 900 square feet or more than 30 feet in any dimension, shall be \$100.
 - (j) The fee for a certificate of compliance for public swimming pools, spas and hot tubs shall be \$125.
 - (k) N.J.A.C. 5:23-4.18(c)vi. The unit rate for large, open-volume, single-story spaces in buildings, such as barns, silos, greenhouses, warehouses, distribution centers, and other

agricultural, and storage-use occupancies, shall be less than the unit rate for other types of buildings and occupancy classifications. For the purpose of calculating the volume to determine the fee for these spaces, the height shall be limited to 20 feet notwithstanding the fact that the actual height of the space may be greater than 20 feet.

(l) For all other items not listed under the building, electric, plumbing, fire and elevator sections, the fee is \$20.

(m) The fee for a change of contractor permit will be the minimum fee per permit subcode(s).

C. Waiver of fees during emergency. **[Added 1-5-2021 by Ord. No. O-20-25]**

(1) During any time when a state of emergency or health emergency exists in the Township, whether declared by the Governor of the State of New Jersey or by the appropriate Township official, the following permit fees may be waived by the Manager:

(a) Outdoor tent for business purposes.

(b) Heating source for outdoor tent for business purposes.

(2) During a state of emergency or health emergency, the governing body may by resolution include additional permit fees in, or remove existing permit fees from, Subsection C(1) above.

Chapter 127**DISORDERLY CONDUCT**

[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 Art. I of Ch. 166 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 74.

Parades and processions — See Ch. 222.

Games of chance — See Ch. 166.

Park rules and regulations — See Ch. 234, Art. I.

Graffiti — See Ch. 174.

Skateboards — See Ch. 285.

Noise — See Ch. 217.

§ 127-1. Loitering; offensive language; disorderly acts.

It shall be unlawful for any person to:

- A. Loiter in or upon any street or public place or in or about any public building so as to interfere with the free and unobstructed use thereof by the public.
- B. Utter or make any loud, indecent, abusive or offensive language or noise in or upon any street or public place or in or about any public building.
- C. Engage in any game of chance for money or other valuable thing in or upon any public street or public place.⁶³
- D. Make any indecent exposure or exhibition of any kind or commit any disturbance or breach of peace in or upon any street, avenue or place, public or private, in the Township.
- E. Disturb, by any violent, obscene, abusive or threatening language or disorderly or indecent behavior of any kind, any lawful congregation or assembly of any kind or description in any place or building within the Township.

§ 127-2. Unnecessary noise; disturbance.

No person shall make or assist in making any riot, noise or disturbance in any house, shop, store or any other place, public or private, within the Township.

§ 127-3. Maintaining disorderly house.

No person shall keep or maintain a disorderly house or a house of ill fame in the Township.

63. Editor's Note: See Ch. 166, Games of Chance.

§ 127-4. Disorderly persons.

No person shall allow or permit his or her house, shop, store or other place to be used, frequented or resorted to by riotous or disorderly persons, prostitutes, gamblers, vagrants or mendicants.

§ 127-5. (Reserved)⁶⁴

§ 127-6. Consumption in public places; unlawful consumption.⁶⁵ [Added 7-31-1984 by Ord. No. 84-27; amended 7-20-2010 by Ord. No. O-10-031; 9-5-2017 by Ord. No. O-17-026; 6-3-2025 by Ord. No. O-25-17]

- A. Except as otherwise permitted pursuant to Chapter 276 of the Township Code, Sidewalk Cafes, no person shall drink, consume or cause to be consumed any alcoholic beverage; or have in his or her possession any unsealed alcoholic beverage container with an alcoholic beverage therein upon any public street, sidewalk, right-of-way, avenue, pathway, park, playground, recreation area or any other public place or upon any land owned or occupied by the Township of Montclair or upon outdoor facilities owned or operated by the Board of Education of the Township of Montclair.
- B. Nothing in this section shall be construed to prevent or prohibit the otherwise lawful consumption of alcoholic beverages at a block party for which a permit has been granted pursuant to Chapter 222, Parades and Processions, or Chapter 234 of the Code of the Township of Montclair, or at an event for which a social affair permit or a petition for extension of licensed premises has been consented to by the Township and approved by the Division of Alcoholic Beverage Control, State of New Jersey.

§ 127-6.1. Trespassing on railroad property prohibited. [Added 12-14-1999 by Ord. No. 99-27]

No person other than those connected with or employed upon the railroad who are acting within the scope of their employment shall enter upon the right-of-way of any railroad or come into contact with any equipment, machinery, wires or rolling stock of any railroad. This section shall not prohibit a passenger for hire from utilizing those parts of a railroad particularly intended for passenger use nor shall it prohibit a person from using a crossing established by the railroad.

§ 127-7. Violations and penalties. [Amended 1-10-1989 by Ord. No. 88-81; 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.

64. Editor's Note: Former § 127-5, Intoxication, was repealed 7-20-2010 by Ord. No. O-10-031.

65. Editor's Note: See also Ch. 74, Alcoholic Beverages.

MONTCLAIR CODE

Chapter 130

DRUG-FREE ZONES

[HISTORY: Adopted by the Township Council of the Township of Montclair 11-18-2019 by Ord. No. O-19-034.⁶⁶ Amendments noted where applicable.]

66. Editor's Note: This ordinance also repealed former Ch. 130, Drug-Free Zones, comprised of Art. I, Drug-Free Public Facilities Zones, adopted 4-6-1999 by Ord. No. 99-3.

ARTICLE I
Drug Free School Zone Map

§ 130-1. Map adopted; official record; changes; copies.

- A. In accordance with and pursuant to the authority of N.J.S.A. 2C:35-7, the map entitled "Drug Free School Zone Map" as produced by the Municipal Engineer of the Township of Montclair on September 24, 2019, is hereby approved and adopted as an official finding and record of the location and areas on or within 1,000 feet of school property as defined in N.J.S.A. 2C:35-7. The Drug-Free Zone Map adopted by this chapter shall constitute an official finding and record of the location and boundaries of the area or areas on or within 1,000 feet of school property.⁶⁷
- B. The School Board, or the Chief Administrative Officer in the case of any private or parochial school, shall promptly notify the Municipal Engineer and the Township Attorney of the Township of Montclair of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and used for school purposes pursuant to N.J.S.A. 2C:35-7.
- C. The Township Clerk shall provide certified copies of the Drug Free Zone Map:
- (1) At a reasonable cost to any person, agency or court which may from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file; and
 - (2) Without cost to the Essex County Clerk and to the Office of the Essex County Prosecutor.
- D. Nothing in the within section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense, nor shall the within section be construed to preclude the use or admissibility of any map or any diagram other than one which has been approved by the governing body of the Township of Montclair, provided that the map or diagram is otherwise admissible pursuant to rules of evidence.

§ 130-2. Legislative findings; failure to depict property; additional requirements.

- A. It is understood that the map approved and adopted pursuant to § 130-1 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state and that pursuant to state law, such map shall constitute prima facie evidence of the following:
- (1) The location of elementary and secondary schools within the Township of Montclair;
 - (2) The boundaries of the real property which is owned by or leased to such schools or a school board;
 - (3) That such school property is and continues to be used for school purposes; and
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
- B. Pursuant to the provisions of N.J.S.A. 2C:35-7, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to

67. Editor's Note: The Drug Free School Zone Map is on file in the Township offices or available through the Township's online version of the Code (eCode360®).

§ 130-1 of this chapter. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board or that such property is not used for school purposes.

- C. All of the requirements set forth in N.J.S.A. 2C:35-7 concerning the preparation, approval and adoption of a Drug Free School Zone Map have been complied with.

ARTICLE II
Drug Free Public Facility Zone Map

§ 130-3. Map adopted; official record; changes; copies.

- A. In accordance with and pursuant to the authority of N.J.S.A. 2C:35-7.1, the map entitled "Drug Free Public Facility Zone Map" as produced by the Municipal Engineer of the Township of Montclair on September 24, 2019, is hereby approved and adopted as an official finding and record of the location and areas on or within 500 feet of a public housing facility, public park, or public building, as defined in N.J.S.A. 2C:35-7.1.⁶⁸
- B. The Township Department of Community Services, or the administrative agency of the Township which manages the Township parks, or the Essex County Department of Parks, as appropriate, shall in the case of a "public park" notify the Municipal Engineer and the Township Attorney of the Township of Montclair of any changes or contemplated changes in the location and boundaries of any "public park" pursuant to N.J.S.A. 2C:35-7.1.

§ 130-4. Legislative findings; failure to depict property; additional requirements.

- A. It is understood that the map approved and adopted pursuant to § 130-3 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state and that pursuant to state law, such map shall constitute prima facie evidence of the following:
- (1) The location of public parks, public housing facilities, and public buildings as defined in N.J.S.A. 2C:35-7.1 within the Township of Montclair;
 - (2) The boundaries of the real property which is owned by or leased to public parks, public housing facilities, and public buildings;
 - (3) That such property is and continues to be used as public parks, public housing facilities, or public buildings; and
 - (4) The location and boundaries of areas which are on or within 500 feet of the boundaries of such public parks, public housing facilities, and public buildings.
- B. Pursuant to the provisions of N.J.S.A. 2C:35-7.1, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to § 130-1 of this chapter. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for public park, public housing, or public building purposes, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not used for public park, public housing, or public building purposes.
- C. All of the requirements set forth in N.J.S.A. 2C:35-7.1, concerning the preparation, approval and adoption of a Drug Free Zone Map, have been complied with.

68. Editor's Note: The Drug Free Public Facility Zone Map is on file in the Township offices or available through the Township's online version of the Code (eCode360®).

EMPLOYER REGULATIONS

Chapter 132

EMPLOYER REGULATIONS

[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Paid Sick Leave**[Adopted 11-4-2014 by Ord. No. O-14-047]****§ 132-1. Definitions.**

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

AGENCY — The Department of Health and Human Services.

CALENDAR YEAR — A regular and consecutive twelve-month period, as determined by an employer.

CONSTRUCTION UNION — A labor organization that represents, for purposes of collective bargaining, employees involved in the performance of construction, reconstruction, demolition, alteration, custom fabrication, or repair work and who are enrolled or have graduated from a registered apprenticeship program.

EMPLOYEE — As defined in N.J.S.A. 34:11-56a1(h), one who works in the Township of Montclair for at least 80 hours in a year, except that "employee," for purposes of this article, does not include any person employed by any governmental entity or instrumentality, including any New Jersey school district or board of education or any person who is a member of a construction union and is covered by a collective bargaining agreement negotiated by that union.

EMPLOYER — As defined in N.J.S.A. 34:11-56a1(g), except that "employer" does not include the United States government; the state or its political subdivisions or any office, department, agency, authority, institution, association, society or any instrumentality of the state, including the legislature or judiciary; or the Township of Montclair.

FAMILY MEMBER —

- A. A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child of a civil union partner, or a child to whom the employee stands in loco parentis;
- B. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or of an employee's spouse, domestic partner or civil union partner or a person who stood in loco parentis when the employee was a minor child;
- C. A person to whom the employee is legally married under the laws of New Jersey or any other state or with whom the employee has entered into a civil union under N.J.S.A. Title 37;
- D. A grandparent or spouse, civil union partner or domestic partner of a grandparent;
- E. A grandchild;
- F. A domestic partner of an employee as defined in N.J.S.A. 26:8A-3 et seq.; or
- G. A sibling.

HEALTH CARE PROFESSIONAL — Any person licensed under federal or New Jersey law to provide medical or emergency services, including but not limited to doctors, nurses and emergency room personnel.

PAID SICK TIME — Time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in § 132-3 of this article, but in no case shall the hourly wage be less than that provided under N.J.S.A. 34:11-56a.

REGISTERED APPRENTICESHIP PROGRAM — An apprenticeship program that is registered with and approved by the United States Department of Labor and which meets not less than two of the following requirements:

- A. Has active, employed, registered apprentices;
- B. Has graduated apprentices to journey worker status during a majority of the years that the program has been in operation; or
- C. Has graduated apprentices to journey worker status during three of the immediately preceding five years, provides each trainee with combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade and meets the program performance standards of enrollment and graduation under 29 CFR Part 29, Section 29.63.1.

RETALIATION — The denial of any right guaranteed under this article and any threat, discipline, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein, including for filing a complaint or informing any person about any employer's alleged violation of this article; cooperating with the Agency in its investigations of alleged violations of this article; participating in any administrative or judicial action regarding an alleged violation of this article; and informing any person of his or her potential rights under this article.

§ 132-2. Employees covered by collective bargaining agreements.

- A. All or any portion of the applicable requirements of this article shall not apply to employees covered by a collective bargaining agreement, to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.
- B. With respect to employees covered by a collective bargaining agreement in effect at the time of the effective date of this article, no provision of this article shall apply until the expiration of the collective bargaining agreement; however, if the terms of an expired collective bargaining agreement provide paid sick leave that is more generous than provided by this article, those terms of the expired collective bargaining agreement apply to the extent required by law.

§ 132-3. Accrual of paid sick time.

- A. All employees accrue a minimum of one hour of paid sick time for every 30 hours actually worked, subject to the limits set forth below in Subsections B and C.
- B. Employers who employ 10 or more employees for compensation are not required to provide more than 40 hours of paid sick time in a calendar year.
- C. Employers who employ fewer than 10 employees for compensation are not required to provide more than 24 hours of paid sick time in a calendar year, except for employees who are child-care workers, home health care workers and food service workers. For child-care workers, home health care workers and food service workers, employers are required to provide up to 40 hours of paid sick time, so long as the hours are accrued in a calendar year as set forth in Subsection A above.
- D. In determining the number of employees performing work for an employer, all employees performing work for compensation on a full-time, part-time, or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation during the preceding calendar year.

- E. Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act are assumed to work 40 hours in each workweek for purposes of paid sick time accrual unless their normal workweek is less than 40 hours, in which case paid sick time accrues based upon that normal workweek.
- F. Employees begin to accrue paid sick time on the first day of employment. Employees are entitled to use accrued paid sick time beginning on the 90th calendar day of their employment, and thereafter employees are entitled to use paid sick time as it is accrued.
- G. Accrued but unused paid sick time shall be carried over to the following calendar year, provided that no employer shall be required to carry over more than 40 hours of unused paid sick time from one calendar year to the next or allow the use of more than 40 hours of paid sick time in a calendar year. An employer shall not be required to carry over unused paid sick time if the employee is paid for any unused paid sick time at the end of the calendar year in which such time is accrued.
- H. Any employer with a paid leave policy, such as a paid time off policy, that provides an amount of paid leave sufficient to meet the total annual accrual requirements of this section that may be used for the same purposes and under the same conditions as paid sick time under this article is not required to provide additional paid sick time.
- I. Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued paid sick time that has not been used.
- J. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer in the Township of Montclair, the employee is entitled to all paid sick time accrued at the prior division, entity, or location and is entitled to use all paid sick time as provided in this section. If there is a separation from employment and the employee is rehired within six months of separation, previously accrued unpaid sick time that had not been used shall be reinstated. Further, the employee is entitled to use accrued unpaid sick time and accrue additional unpaid sick time at the recommencement of employment.
- K. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all paid sick time accrued when employed by the original employer and are entitled to use all paid sick leave previously accrued.
- L. At its sole discretion, an employer may loan paid sick time to an employee in advance of accrual by such employee. A decision by an employer to deny a loan request by an employee shall not subject the employer to any liability under this article.

§ 132-4. Use of paid sick time.

- A. Paid sick time shall be provided to an employee by an employer for:
 - (1) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventive medical care;
 - (2) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventive medical care;

- (3) Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.
- B. Nothing in this article prohibits an employer from requesting that an employee confirm, in writing, following use of paid sick time, that the paid sick time was used for an authorized purpose under this article.
- C. Where the need to use paid sick time is foreseeable, an employer may require reasonable advance notice of the intention to use paid sick time. In no event shall an employee be required to give notice more than seven days prior to the date such sick time is to begin. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of sick time before the beginning of the employee's work shift or workday or, in cases such as emergencies where advance notice is not possible, notice shall be provided by the employee as soon as practicable.
- D. An employer may not require, as a condition of an employee's taking paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is absent.
- E. Accrued sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.
- F. After an employee has used paid sick time for three consecutive days or three consecutive instances, an employer may require an employee to provide reasonable documentation that the time has been used for a purpose covered by Subsection A. In this instance, the employer may require documentation signed by a health care professional indicating that the paid sick time was necessary; however, an employer may not require that the documentation explain the nature of the illness.

§ 132-5. Exercise of rights protected; retaliation prohibited.

- A. No person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article.
- B. No person shall retaliate against an employee because the employee has properly exercised rights protected under this article.

§ 132-6. Notice and posting of rights.

- A. All employers shall give written notice to each employee at the commencement of the employee's employment (or as soon as practicable if the employee is already employed on the effective date of this article), regarding employee's rights under this article. Such notice shall describe the right to paid sick time, the accrual rate and the amount of paid sick time, and the terms of its use under this article; the right to be free from retaliation for properly requesting use of paid sick time; and the right to file a complaint or bring an action in municipal court if paid sick time is denied by the employer or the employee is retaliated against for requesting or taking paid sick time. Such notice shall be in English and the primary language spoken by that employee, so long as the primary language of that employee is also the primary language of at least 10% of the employer's workforce.

- B. Employers shall also display a poster, in a conspicuous and accessible place in each business establishment where employees are employed, containing the information required in Subsection A. The poster shall be in English and in any language that is the first language of at least 10% of the employer's workforce.
- C. The Agency can create and make available to employers notices and posters in English and Spanish and any other languages deemed appropriate by the Agency that contain the information required under Subsection A for employers' use in complying with this section.

§ 132-7. Violations and penalties.

Any employer who violates the provisions of this article shall, upon conviction thereof, be punished by a fine not exceeding \$2,000. Each day on which a violation of this article 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. In addition to the fines set forth above, any employer who violates this article is subject to payment of restitution in the amount of any paid sick time unlawfully withheld.

§ 132-8. Employer records.

Employers shall allow the Agency reasonable access to records and to monitor compliance with the requirements of this article. An employer's failure to maintain or retain adequate records documenting hours worked by an employee and paid sick time taken by an employee creates a rebuttable presumption that the employer has violated this article, absent clear and convincing evidence otherwise.

§ 132-9. Enforcement; filing of complaints; adjudication.

- A. The Agency shall coordinate implementation and enforcement of this article and promulgate appropriate guidelines or regulations for such purposes.
- B. The Agency shall have broad powers to ensure compliance with this article.
- C. In the event an allegation of noncompliance cannot be resolved by the Agency with the employer, a complaint may be filed, by the Agency and/or the employee as the complainant, in the Montclair Municipal Court for any alleged violation of this article.
- D. The Municipal Court shall have the power to adjudicate all allegations of violations of this article and impose fines or penalties provided for in this article, or any further relief deemed appropriate by the court, including but not limited to restitution, reinstatement, or injunctive or declaratory relief.
- E. Submitting a complaint to the Agency is neither a prerequisite nor a bar to bringing a private action.
- F. The Agency shall have the power to do outreach to inform the residents of the Township of their rights under this article and to publicize online and in other media the names of employers who violate this article.

§ 132-10. Confidentiality and nondisclosure.

- A. An employer may not require disclosure of the specific details relating to an employee's or an employee's family member's medical condition as a condition of providing paid sick time under this article. If an employer possesses health information about an employee or employee's family member, such information shall be treated as confidential and shall not be disclosed by the employer except to

the affected employee or with the permission of the affected employee.

- B. The Agency shall maintain confidential the identity of any complaining person unless disclosure of the identity is necessary for resolution of the investigation. The Agency shall, to the extent practicable, notify a complaining person that the Agency will be disclosing his or her identify prior to such disclosure.

§ 132-11. Effect on other policies and laws.

- A. Nothing in this article shall be construed to discourage or prohibit an employer from the adoption or retention of a paid sick time policy more generous than the one required herein.
- B. Nothing in this article shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.
- C. Nothing in this article shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of the State of New Jersey pertaining to public employees.
- D. Nothing in this article shall be construed as diminishing the rights secured by S2177, the New Jersey Security and Financial Empowerment Act,⁶⁹ for domestic violence victims in the Township of Montclair.
- E. Nothing in this article shall be construed or interpreted in a way that would conflict with any state or federal law pertaining to paid sick time or employee benefits.

§ 132-12. Construal of provisions.

This article provides minimum requirements pertaining to paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick time, whether paid or unpaid, or that extends other protections to employees.

§ 132-13. Severability.

If any provision of this article or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared severable.

§ 132-14. When effective.

This article will take effect 120 days following enactment, except that in the case of employees covered by a collective bargaining agreement in effect on the effective date prescribed herein, this article shall apply on the date of the termination of such agreement unless the collective bargaining agreement expressly waives the protections set forth in this article.

⁶⁹. Editor's Note: See N.J.S.A. 34:11C-1 et seq.

ENVIRONMENTAL HAZARDS

Chapter 134

ENVIRONMENTAL HAZARDS

[HISTORY: Adopted by the Township Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Single-Use Plastic Bags
[Adopted 11-18-2019 by Ord. No. O-19-022]

§ 134-1. Definitions.

The following definitions apply to this chapter:

COMPLIANT BAG — Recyclable paper carry-out bags and reusable bags.

- A. A recyclable paper carry-out bag is a paper bag that meets all of the following requirements:
- (1) It is 100% recyclable and contains a minimum of 40% post-consumer recycled material;
 - (2) It can be composted; and
 - (3) It displays the words "recyclable" and/or "reusable" in a highly visible manner on the outside of the bag.
- B. A reusable bag is a bag made of cloth or other washable fabric with handles that are specifically designed and manufactured for multiple reuse and meets all of the following additional requirements:
- (1) It has a minimum lifetime of 125 uses; and
 - (2) It can carry a minimum of 22 pounds; and
 - (3) It is machine-washable or is made from a material that can be cleaned or disinfected; and
 - (4) It does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable state and federal standards and regulations; and
 - (5) If made of plastic, it is a minimum of at least 2.25 mils thick.

CUSTOMER — Any person purchasing goods or services from a high volume retail establishment. A high volume retail establishment is a retail establishment defined below that meets one of the following criteria:

- A. Retail establishments that have a retail space of 20,000 square feet or larger (excluding storage space) or have at least three locations under the same name within the Township of Montclair that total 20,000 square feet or more.
- B. Retail pharmacies with at least two locations under the same ownership within the Township of Montclair.
- C. Full-line, self-service supermarkets that had annual gross sales in excess of \$1,000,000 during the previous tax year which sell a line of dry groceries, canned goods, or nonfood items and some perishable items.

OPERATOR — The person in control of, or having the responsibility for, the operation of a high volume retail establishment, which may include, but is not limited to, the owner of the high volume retail establishment.

PERSON — Any natural person, firm, corporation, partnership, or other organization or group, however organized.

POST-CONSUMER RECYCLED MATERIAL — A bag constructed of a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-

consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

PRODUCE BAG or PRODUCT BAG — A very thin bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a high volume retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

RECYCLABLE — Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of reusing the altered, incinerated, converted, or otherwise thermally destroyed solid waste generated therefrom.

RETAIL ESTABLISHMENT — Any store or commercial establishment that sells perishable or nonperishable goods, including, but not limited to, clothing, food, and personal items, directly to the customer and is located within or doing business within the geographical limits of the Township of Montclair. Retail establishments include: a business establishment that generates a sales or use tax; a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other commercial entity engaged in the retail sale of a limited line of goods that include milk, bread, soda, and snack foods; a public eating establishment (i.e., a restaurant, take-out food establishment, or any other business that prepares and sells prepared food to be eaten on or off its premises); and a business establishment that sells clothing, hardware, or any other nonperishable goods. "Retail establishment" does not include nonprofit charitable reusers as defined in § 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization that reuses and recycles donated goods or materials and receives more than 50% of its revenues from the handling and sale of those donated goods or materials.

SINGLE-USE PLASTIC CARRY-OUT BAG — Any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources, that is provided by an operator of a high volume retail establishment to a customer at the point of sale. The term includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags. This definition specifically exempts the following from the category of "single-use plastic carry-out bag":

- A. Bags provided by operators and used by consumers inside high volume retail establishments to:
 - (1) Package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;
 - (2) Contain or wrap frozen foods, meat, or fish, whether packaged or not;
 - (3) Contain or wrap flowers, potted plants, or other items where dampness may be an issue;
 - (4) Contain unwrapped prepared foods or bakery goods; or
 - (5) Pharmacy prescription bags.
- B. Newspaper bags, door-hanger bags, laundry and/or dry-cleaning bags, or bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, yard waste bags, or pet waste bags.

§ 134-2. Single-use plastic carry-out bags prohibited.

No high volume retail establishment shall provide to any customer a single-use plastic carry-out bag, as defined in § 134-1 above. This prohibition applies to bags provided for the purpose of carrying goods away from the point of sale and does not apply to product bags or to produce bags used to carry produce within the high volume retail establishment to the point of sale. The prohibition applies to single-use plastic carry-out bags used for take-out deliveries from high volume retail establishments within the Township of

Montclair. The point of sale in such transactions is deemed to be at the high volume retail establishment, regardless of where payment for the transaction physically occurs.

§ 134-3. Availability and use of compliant bags.

- A. All high volume retail establishments may make available to customers, for a fee, compliant bags, as defined herein, for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this chapter. The fee charged shall be reflected in the sales receipt.
- B. Nothing in this chapter prohibits customers from using bags of any type that they choose to bring to high volume retail establishments themselves, in lieu of using bags available for a fee from the high volume retail establishment, or from carrying away goods that are not placed in a bag. A high volume retail establishment may choose, in its discretion, to provide a credit to customers that choose to bring their own bags.

§ 134-4. Fees for provision of compliant bags.

- A. High volume retail establishments providing compliant bags to customers on request shall charge a fee of at least \$0.10 but not more than \$0.25 per bag.
- B. A high volume retail establishment may provide customers with a reusable bag, as defined herein, for a fee of at least \$0.10.

§ 134-5. Exempt operators.

- A. The Manager may approve a request for an exemption or a deferral of the application and enforcement of this chapter by any operator of a high volume retail establishment, with or without conditions, upon a showing of substantial hardship or other good cause. Exemptions should only be granted in unusual circumstances outside the regular course of business. Deferrals should be granted only for the minimum time necessary to accommodate the reason for the deferral.
- B. Exemption and deferral decisions are effective upon approval and are final, and are not appealable, except as otherwise provided for by law.
- C. The fee for exemption and deferral requests is \$100.

§ 134-6. Enforcement; violations and penalties.

- A. The Division of Code Enforcement shall be responsible for enforcement of this chapter and may promulgate reasonable rules and regulations in furtherance thereof. Any rules and regulations so promulgated shall be filed with and available from the Township Clerk.
- B. Any high volume retail establishment that violates or fails to comply with any of the requirements of this chapter after a written warning notice has been issued for that violation shall be subject to penalty.
- C. Violations of this chapter after the issuance of written warning notice of a violation shall be subject to the following penalties payable by the operator of the high volume retail establishment:
 - (1) A fine not exceeding \$100 for the first violation after the written warning notice is given;
 - (2) A fine not exceeding \$200 for the second violation after the written warning notice is given;
 - (3) A fine not exceeding \$500 for the third and any subsequent violations after the written warning

notice is given.

D. Each day a violation occurs or continues constitutes a separate violation.

§ 134-7. When effective.

A. This chapter shall take effect as provided by law.

B. High volume retail establishments shall be subject to this chapter on its effective date.

ARTICLE II
Privately Owned Salt Storage
[Adopted 1-30-2024 by Ord. No. O-23-38]

§ 134-8. Purpose.

The purpose of this article is to prevent stored salt and other solid de-icing materials from being exposed to stormwater. This article establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately owned), including residences, in the Township of Montclair to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 134-9. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

DE-ICING MATERIALS — Any granular or solid material, such as melting salt or any other granular solid, that assists in the melting of snow.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

PERMANENT STRUCTURE — A permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the accessway from wind-driven rainfall). A fabric frame structure is a permanent structure if it meets the following specifications:

- A. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
- B. The design shall prevent stormwater run-on and run-through, and the fabric cannot leak;
- C. The structure shall be erected on an impermeable slab;
- D. The structure cannot be open-sided; and
- E. The structure shall have a roll-up door or other means of sealing the accessway from wind-driven rainfall.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

RESIDENT — A person who resides on a residential property where de-icing material is stored.

STORM DRAIN INLET — The point of entry into the storm sewer system.

§ 134-10. De-icing material storage requirements.

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15 and April 15:

- (1) Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
 - (2) Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
 - (3) Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
 - (4) Loose materials shall be covered as follows:
 - (a) The cover shall be waterproof, impermeable, and flexible;
 - (b) The cover shall extend to the base of the pile(s);
 - (c) The cover shall be free from holes or tears;
 - (d) The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - (e) Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.
 - [1] Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used.
 - (5) Containers must be sealed when not in use; and
 - (6) The site shall be free of all de-icing materials between April 16 and October 14.
- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 through April 15.
- C. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this article are met. Inspection records shall be kept on site and made available to the municipality upon request.
- (1) Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§ 134-11. Exemptions.

- A. Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within two weeks.
- B. If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in § 134-10 above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

- C. This article does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

§ 134-12. Enforcement.

This article shall be enforced by the Division of Code Enforcement during the course of ordinary enforcement duties.

§ 134-13. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this article shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows:

- A. A fine not exceeding \$100 for the first violation after the written warning of notice is given;
- B. A fine not exceeding \$200 for the second violation after the written warning notice is given;
- C. A fine not exceeding \$500 for the third and any subsequent violations after the written warning notice is given.
- D. Each day a violation occurs or continues constitutes a separate violation.

§ 134-14. Severability.

Each section, subsection, sentence, clause, and phrase of this article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this article.

§ 134-15. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

ARTICLE III

Single-Use Food and Beverage Items**[Adopted 12-17-2024 by Ord. No. O-24-36]****§ 134-16. Definitions.**

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

BEVERAGE — Means any liquid, including any juice, smoothie, slurry, frozen, semi-frozen, or other forms of liquids, intended for drinking.

BEVERAGE SPLASH STICK — Means a device primarily intended to be used to keep heat and liquid from escaping a lidded cup.

BEVERAGE STIRRER — Means a device primarily intended for stirring beverages.

CONDIMENT — Means a substance used to add flavor to food.

CONDIMENT PACK — A small bag or pouch, sealed by the manufacturer, that contains single-use quantities of foods such as ketchup, mustard, sugar or soy sauce and is commonly opened by making a small rip or tear in the packet and squeezing or pouring out the contents.

CUSTOMER EXPLICIT REQUEST — Means a specific written, verbal or online inquiry, action, demand, or need expressed by a customer to a restaurant or food provider or its representatives.

EATING UTENSIL — Means an item used for eating and drinking, including, but not limited to, a knife, fork, spoon, or chopsticks.

FOOD AND BEVERAGE CONTAINER — Means an item used for holding food or beverage, including, but not limited to, a plate, bowl, cup, lid, or beverage sleeve.

PLASTIC — Means any synthetic, or semi-synthetic material made from polymers or from renewable or biological sources, including but not limited to vegetable fats and oils, polysaccharides, sugar, or proteins.

PORTION CUPS — Means small cups used to hold dipping sauces or other condiments accompanying a dish, often filled at the eating establishment from larger quantities.

RESTAURANT or FOOD SERVICE PROVIDER — Means any eating or beverage establishment within Montclair which offers for sale food or beverages to the public, guests, members, or patrons, whether consumption occurs on or off the premises or is provided from a food van, pushcart, stand or vehicle.

SELF-SERVICE STATION — Means a place at a restaurant or food service provider where customers serve themselves, without the help of a staff member.

SINGLE-USE FOOD SERVICE ITEM — Means any item that is not necessary for the utilitarian conveyance of food and beverages, including any item that may be used along with food and beverages, such as utensils, beverage stirrers and beverage splash sticks, napkins, condiment packs, beverage and other items designed for one-time use (including single-use plastic and non-plastic items) and all similar articles that are intended by the retail establishment to be used once for eating or drinking or that are generally recognized by the public as items to be discarded after one use. Bags and straws are not covered in this article.

UTILITARIAN CONVEYANCE — Means items necessary to contain food or beverage products for the purpose of transporting or imbibing the product.

§ 134-17. Distribution and/or use.

- A. Effective March 1, 2025, restaurants and food service providers shall not distribute single-use food service items with takeout or delivery orders, except upon a customer's explicit request.
- B. Online ordering and delivery apps used by restaurants and food service providers shall be set to a default to not provide single-use food service items unless the customer opts to request said items during the process of ordering food.
- C. Delivery and courier services shall not provide said items unless requested by the customer.
- D. Single-use food and beverage containers which are necessary for the utilitarian conveyance of food and beverages are allowed. This includes containers used to hold the meal or drink itself. Portion cups that an establishment fills to supply small amounts of sauces/dressings/flavorings (e.g., guacamole or gravy) to accompany a meal are allowed. Sealed condiment packs may only be dispensed upon customer request.

§ 134-18. Exemptions.

The restrictions set forth herein shall not apply to:

- A. Self-service stations within any food provider's premises or within any food or grocery establishment.
- B. Prepackaged drinks sold or distributed by a food service provider.
- C. Use by any customer with a disability or other impairment.
- D. Takeaway or carryout bags or other single-use items which are covered by New Jersey State Law (P.L. 2020 c. 117).

§ 134-19. Enforcement; violations and penalties.

- A. The Montclair Township Department of Health and the Division of Code Enforcement are responsible for enforcement of this article and shall have the authority to promulgate rules as necessary and appropriate for the implementation of this article consistent with the intent and purposes of this article.
- B. A restaurant or food service provider who violates or fails to comply with any of the requirements of this article shall be issued an initial written warning and shall have 30 days to correct the violation. After an initial written warning notice has been issued, the restaurant or food service provider shall be subject to the following penalties:
 - (1) A fine of \$100 for the first violation;
 - (2) A fine of \$200 for the second violation; or
 - (3) A fine of \$500 for the third and any subsequent violations.

§ 134-20. Severability.

Each section, subsection, sentence, clause, and phrase of this article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this article.

§ 134-21. When effective.

This article shall be in full force and effect from and after its adoption and any publication as may be required by law.

ARTICLE IV

**Use of Synthetic Pesticide on Township Owned Land
[Adopted 7-22-2025 by Ord. No. O-25-22]****§ 134-22. Definitions.**

As used in this chapter, the following terms shall have the meaning as indicated:

EMERGENCY ORDER — A determination to take immediate action that bypasses any process or procedure defined in this chapter and similarly bypasses Mayor and Council approval.

IMMEDIATE THREAT TO HEALTH — A situation where waiting for a determination on the use of pesticides could cause serious physical harm or death to humans or wildlife.

LOCAL PARK RESIDENT USER GROUP — A formal or informal group or organization made up of residents who take care of and/or advocate for proper maintenance or conservation in local parks and open spaces.

NEONICOTINOIDS (neonics) — A class of insecticides that share a common mode of action that affects the central nervous system of insects, resulting in paralysis and death. Neonics and their alternatives have been found hazardous to bees, pollinators, and other beneficial insects.

ORGANIC LANDCARE MANAGEMENT — A problem-solving approach that prioritizes a natural, organic approach to turf-grass and landscape management without the use of synthetic pesticides and synthetic fertilizers or soil amendments. It mandates the use of natural, organic cultural practices that promote healthy soil and plant life and serve as a preventative measure or natural control for the occurrence of unwanted plants, invasive plant species, or mosquitoes, for example. For turf and land care, natural, organic cultural practices may include proper mowing, soil analysis, aeration, overseeding, proper aeration, the use of non-synthetic fertilizers and soil amendments, and hand-removal of unwanted plants. For mosquitoes, this may include techniques that make it unfavorable for mosquitoes to breed such as eliminating standing water. For invasive plant species, this may include practices allowed by the NOFA Land Care Standards. When products are incorporated into this approach, only organic products are utilized, when absolutely necessary.

ORGANIC LANDCARE PRODUCT — Any product or materials: (1) sanctioned as organic in accordance with the Organic Materials Review Institute (OMRI); or (2) whose active ingredients are all listed in the OMRI Generic Materials List; or (3) listed in the National Organic Program (NOP) Code of Federal Regulations Title 7 - Subtitle B - Chapter I - Subchapter M - Part 205 - Subpart G - Section § 205.601; or (4) designated and labeled as "for organic production" per the National Organic Program (NOP); or (5) As prescribed by certified organic agents or contractors accredited through the Northeast Organic Farming Association (NOFA), provided that such prescription is in accordance with the land care and maintenance practices sanctioned by NOFA in its Standards for Organic Land Care for clients who ask for organic services.

PROHIBITED PRODUCT — Any product, material, substance, pesticide, fungicide, insecticide, herbicide that contains (1) Glyphosate, (2) 2,4-Dichlorophenoxyacetic acid (2,4-D), (3) 1,3-Dichloropropene (1,3-D), (4) Neonicotinoids, (5) Chlorpyrifos (6) Organophosphates or (7) Synthetic Pyrethroids and/or is a known, likely, or probable human carcinogens or probable endocrine disruptors, or those pesticides that meet the criteria for Toxicity Category I, Category II, and category III, as defined by the United States Environmental Protection Act (EPA) in section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations.

SYNTHETIC LAND CARE PESTICIDE — Any pesticide, herbicide, fungicide, or insecticide labeled, designed or intended for use on lawns, yards, gardens, parks, or other outdoor open spaces to address

unwanted plants, invasive plants, insects, or fungus. This includes products that contain the chemicals (1) Glyphosate, (2) 2,4-Dichlorophenoxyacetic acid (2,4-D), (3) 1,3-Dichloropropene (1,3-D), (4) Neonicotinoids, (5) Chlorpyrifos (6) Organophosphates or (7) Synthetic pyrethroids.

SYNTHETIC MOSQUITO CONTROL — The use of organophosphates, organochlorines, or synthetic pyrethroids to control or eliminate mosquitoes.

TOWNSHIP OWNED LAND — Any and all parks, lakes, ponds, streams, rivers, open space, trails, lawns, playgrounds, sports fields, public rights-of-way, and other property owned or leased by the Township of Montclair. These include all Township-owned or leased grounds adjacent to Township-owned or leased buildings, but do not include the interior spaces of such buildings. Public and private school grounds are not included in this definition and not covered under this chapter.

§ 134-23. Use of synthetic land care pesticides.

- A. The Township of Montclair and its officers, employees, agents, and contractors shall only use organic land care management practices on Township-owned land.
- B. Synthetic land care pesticides, including herbicides, insecticides, and fungicides are prohibited from being used on Township-owned land.
- C. This prohibition extends to new plantings on Township-owned land, where such acquired nursery plants must not have been pretreated with pesticides.

§ 134-24. Temporary exceptions for the use of a prohibited product.

- A. The use of a prohibited product on Township-owned land is allowed only under the following situations and according to the temporary exception procedures as described in § 134-25.
- B. Prohibited products may be considered for use as a (1) preventative measure, (2) rescue treatment, or (3) as part of a longer-term ecological restoration project in the case of an impending wide-spread tree disease, pathogen, insect, or invasive species infestation that can or has caused significant damage.
- C. In scenarios that may arise as per § 134-24B, there must first be a determination that there are no effective organic land care management practices, nor organic products that will resolve the issue. Such determination must be made by the Department of Community Services, in coordination with the Montclair Department of Health and Human Services, and upon consultation with the Office of Sustainability and the Montclair Environmental Commission. In addition, the matter may be referred to the Parks and Recreation Department and/or Parks & Recreation Advisory Committee (in the case of Montclair Township-owned parks and preserves), and the Township Arborist (in the case of issues related to public trees) for review and to make a recommendation if appropriate.
- D. Prohibited products may be considered if the situation poses an immediate threat to human health as determined by the Montclair Department of Health and Human Services, and no effective organic land care management practices nor organic products are considered effective in this specific situation. In this case, the Director of the Department of Health and Human Services may issue an emergency order allowing for the use of a prohibited product(s) to remediate an imminent threat to health.
- E. In the case that a temporary exception to use a prohibited product(s) is authorized, only a pesticide applicator who is certified by the New Jersey State Department of Environmental Protection may be authorized to use such product(s). The use of such prohibited product(s) must be limited to the

specific affected area and limited in time with a clear termination date.

§ 134-25. Temporary exception procedures.

- A. A party requesting a temporary exception shall follow the temporary exception process as detailed below in Subsection E, including the submission of a temporary exception application to the Department of Community Services, along with related comprehensive planning documents, photos of the affected area (if requested), details on all parties who will be involved in the treatment process including external professionals, and a clear time frame for completion, ensuring that milestones are set and progress can be tracked effectively.
- B. The temporary exception application must be submitted to and reviewed by the Director of Community Services and Director of the Department of Health & Human Services, who will work together to determine whether a temporary exception is recommended, in consultation with the Office of Sustainability, and Montclair Environmental Commission. In addition, the matter may be referred to the Parks and Recreation Department and/or Parks & Recreation Advisory Committee (in the case of Montclair Township-owned parks and preserves) and Township Arborist (in the case of public trees) if appropriate for review and recommendation.
- C. The Director of Community Services and Director of the Department of Health & Human Services shall issue their recommendations in writing and provide them to the Mayor and Township Council which will make a final determination through a resolution. The Mayor and Township Council will review the temporary exception application, the supporting documents, and recommendation, and may then deny the application or approve it through the formal resolution process. Upon project completion, a report summarizing steps taken and results to date will be submitted the Mayor and Township Council, Department of Health and Human Services, and the Department of Community Services.
- D. In the case of the issuance of an emergency order by the Director of the Department of Health and Human Services, review and approval of such an order by the Mayor and Township Council is not necessary. Instead, the Director of Health and Human Services shall give written notice to the Mayor and Township Council regarding the necessity to use prohibited product. The use of the prohibited products may continue until the immediate threat is eliminated or until such earlier time as the Director of the Department of Health and Human Services may determine.
- E. Temporary exception process.
 - (1) The person or entity requesting the exception shall reach out to the Department of Community Services to receive a copy of the temporary exception application. This application will also be housed on the Department of Community Service's webpage.
 - (2) Once completed, the form is emailed or delivered to the Department of Community Services, who will work with the Department of Health & Human Services, the Office of Sustainability, and the Montclair Environmental Commission to make a determination. The Township or the applicant may also request an in-person or virtual meeting with the Township representatives listed above.
 - (3) The application is reviewed by the Department of Community Services, Department of Health & Human Services, Office of Sustainability, Montclair Environmental Commission. Then the Director of the Department of Community Services will present a written recommendation to the Mayor and Council who will make a final determination.

- (4) The Mayor and Township Council reviews the application and supporting documents and may deny the application or approve it via formal resolution. If a temporary exception is approved:
 - (a) A temporary exception letter will be sent by the Department of Community Services to the applicant with the parameters and requirements including project timing.
 - (b) The temporary exception letter shall be posted on the Montclair Township website for public inspection, and a hard copy kept with the Office of the Township Clerk.
 - (c) Upon project completion as per the dates delineated in the exception letter, or annually, if the project is not completed during a given year, whichever is sooner, a report shall be submitted to the Department of Health and Human Services and the Department of Community Services summarizing steps taken and results to date. This report shall contain before and after photos of the issue. The Department of Community Services will share this report with the Township Council.

§ 134-26. Temporary exception extensions.

- A. A party who was given a temporary exception and believes there is a need to continue the use of a prohibited product(s) beyond the timing in the original temporary exception determination letter, then the party may follow the temporary exception extension process detailed below in Subsection C and submit a temporary exception extension application.
- B. The temporary exception extension application process shall be repeated each time an applicant requests the use of a prohibited product(s) beyond the timing and parameters agreed to in the original exception determination letter.
- C. Temporary exception extension process.
 - (1) The person or entity requesting the temporary exception extension shall reach out to the Department of Community Services to receive a copy of the temporary exception extension application.
 - (2) Once completed, the form is emailed or delivered to the Department of Community Services, who will work with the Department of Health & Human Services, the Office of Sustainability, and the Montclair Environmental Commission to make a determination. The Township or the applicant may also request an in-person or virtual meeting with the Township representatives listed above.
 - (3) The application is reviewed by the Department of Community Services, Department of Health & Human Services, Office of Sustainability, Montclair Environmental Commission. Then the Director of the Department of Community Services will present a written recommendation to the Mayor and Council who will make a final determination.
 - (4) The Mayor and Council will review the application and supporting documents and may deny the application or approve it via formal resolution. If temporary exception extension is approved:
 - (a) A temporary exception extension letter will be sent by the Director of the Department of Community Services to the applicant with the parameters and requirements including project timing.
 - (b) The temporary exception extension letter shall be posted on the Township of Montclair

website for public inspection, and a hard copy kept with the Office of the Township Clerk.

- (c) Upon project completion, as per the dates delineated in the exception extension letter, or annually, if the project is not completed during a given year, whichever is earlier, a report shall be submitted to the Department of Health & Human Services and Department of Community Services summarizing steps taken and results to date. This report shall contain before and after photos of the issue. The Department of Community Services will share this report with the Mayor and Council.

§ 134-27. Enforcement, violations; penalties.

- A. The Department of Community Services shall be responsible for enforcement of this ordinance. The regulations herein shall be summarized and included prominently in any written contract at the time of contracting or renewal with an outside entity performing land care management on Township-owned land.
- B. Any contractor who is found to violate any provision of this chapter shall, upon conviction thereof, be punished by a minimum fine of \$500 and not to exceed \$2,500 for each violation.

MONTCLAIR CODE

Chapter 136

FEEES

[HISTORY: Adopted by the Board of Commissioners of the Town of Montclair (Art. I), now Township Council of the Township of Montclair (all subsequent articles), as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 51.

ARTICLE I

General Township Fees**[Adopted 4-15-1980 by Ord. No. 80-12 as Ch. 107 of the 1979 Code]****§ 136-1. Birth, marriage and death certificates. [Amended 4-5-1988 by Ord. No. 88-13; 3-2-2004 by Ord. No. 04-04; 10-8-2013 by Ord. No. O-13-52]**

- A. The fee for furnishing true certified copies of birth, marriage, civil union or domestic partnership certificates shall be \$20.
- B. The fee for furnishing death certificates shall be \$20. Persons ordering four or more copies of a death certificate shall be charged \$10 for each copy.
- C. The fee for corrections on a vital record shall be \$20.

§ 136-2. Duplicate tax bills.

The fee for furnishing a duplicate tax bill is hereby set at \$3.

§ 136-2.1. Duplicate tax sale certificate. [Added 5-24-2011 by Ord. No. O-11-031]

The fee for sale of a duplicate tax sale certificate shall be \$100.

§ 136-3. Police reports and services.

The following fees shall be paid for the respective reports and services furnished by the Township of Montclair Police Department:

- A. Copies of accident reports: \$3.
- B. Copies of all other reports: \$5.
- C. Processing applicants for gun permits: \$3.
- D. Issuing of good conduct certificate (triplicate): \$7.
- E. Fingerprinting when not required by municipal ordinance, for each card: \$2.
- F. Eight-by-ten-inch photographs of motor vehicle accidents and casualties: \$7.

§ 136-4. Basement pumping fee. [Added 2-1-1983 by Ord. No. 83-3]

In the case that the basement of a residence in Montclair is flooded, upon request of the resident and subject to the availability of the fire crew, the Township of Montclair shall pump the basement for a fee of \$30 per hour. The Township reserves the right to waive the fee in case of need.⁷⁰

§ 136-5. Returned checks. [Added 8-23-2005 by Ord. No. 05-38]

A fee of \$20 shall be charged to the payor for any check or other instrument returned by the Township's bank. Additionally, in the event of a returned check or other instrument, the payor will be required to

70. Editor's Note: Former § 107-5, Dumping permits, as amended, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

submit payment in the form of certified funds, money order or cash.

§ 136-5.1. Rain barrels. [Added 8-12-2014 by Ord. No. O-14-029]

The fee for the purchase of a fifty-gallon rain barrel shall be \$36.

ARTICLE II

Fees for Underwriting on Township-Funded Media**[Adopted 6-14-2011 by Ord. No. O-11-33]****§ 136-6. Destination Montclair.com services and rates.****A. Underwriting contract.**

Level	Annual Rate	Services
0	No fee	•Business directory listing: includes name, address, phone number, URL, description
1	\$150	•Business directory listing: includes name, address, phone number, URL, description •Enhanced landing page includes logo, URL link and up to five images
2	\$250	•Business directory listing: includes name, address, phone number, URL, description •Enhanced landing page includes logo, URL link and up to five images •Inclusion in quarterly promotions
	\$450	•Level 2 for 2 years

B. Additional fees:

Service	Fee
Inclusion in business picture gallery	\$25 (annual)
One-time ad design fees	\$50 per hour
Multiple ad designs, one-year contract required; billing monthly	\$25 per hour

§ 136-7. Channel 34 services and rates.

Service	Description	Fees
Video-On-Demand (VOD) First Play Component	10 to 15 second video that always precedes one VOD show (The Buzz, BOE meetings, Council meetings, etc.) each time it is viewed	Annual Fees: \$750 Board of Education \$800 Buzz \$750 Town Council \$800 News and Views \$750 Arts Up Close \$350 Sports Roundup Other show rates to be determined
VOD Banner	2 to 3 lines of text (logo may be included) that remains on the screen while VOD is played	\$200 per month, maximum of 12 sales per year. Multiple months may be purchased
Underwrite a program	Program to appear on Channel 34, returns will appear on both Channel 33 and 34 at the discretion of the scheduler. A PSA of 30 to 60 seconds will be played prior to the program and again on the break. PSA development costs are based on the above hourly schedule with 3-hour minimum	Annual fee: \$1,500
Static page	Messages that appear on the bulletin board wheel. The length of the wheel is 30 minutes, dwell is 14 seconds and it plays 24/7. Verizon 33, 34 Comcast 34 Dwell and frequency may be adjusted. No animation. No sound	Development cost: \$25 Monthly fee: \$100
Production fees	In-house production of shows or public service announcements	Videographers: \$45 for 3-hour minimum Editing: \$50 for 3-hour minimum Coordinating producer: \$65 per hour

ARTICLE III

Credit Card Transaction Service Fee
[Adopted 9-30-2025 by Ord. No. O-25-40]**§ 136-8. Establishment of credit card transaction service fee.**

A service fee in the amount of 3.5% of the total transaction shall be charged to and paid by the user for all payments made to the Township of Montclair by credit card, debit card, or similar electronic payment method.

§ 136-9. Collection of fee.

The service fee shall be automatically calculated and collected at the time of payment by the Township's designated payment processor. The fee shall be applied in addition to the underlying municipal fee, fine, permit, license, tax, or other charge due.

§ 136-10. Exemption from fee.

This service fee shall not apply to payments made by cash, check, electronic funds transfer (EFT), Automated Clearing House (ACH), or money order.

§ 136-11. Administrative oversight.

The Chief Financial Officer and/or Township Manager are hereby authorized to take any and all actions necessary to implement this article, including coordination with third-party processors, and to adjust administrative procedures as may be required for compliance with applicable laws and regulations.

Chapter 140**FILMING**

[HISTORY: Adopted by the Council of the Township of Montclair 11-12-1985 by Ord. No. 85-42; amended in its entirety 4-10-2001 by Ord. No. 01-13. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Parades and processions — See Ch. 222.

Encumbrances in streets — See Ch. 297, Art. IV.

§ 140-1. Definitions.

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

FILMING — The taking of still or motion pictures either on film or videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses. The provisions of this chapter shall not be deemed to include the "filming" of news stories within the Township of Montclair.

MAJOR MOTION PICTURE — Any film which is financed and/or distributed by a major motion picture studio, including but not limited to the following:

- A. Universal Pictures.
- B. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire.
- C. Paramount, including MTV Films and Nickelodeon Movie.
- D. 20th Century Fox, including Fox Searchlight.
- E. Sony/Columbia.
- F. Disney/Miramax.
- G. MGM — United Artists.
- H. Dreamworks.
- I. Any film for which the budget is at least \$5,000,000.
- J. Recurrent weekly television series programming.

PUBLIC LANDS — Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the Township which is within the jurisdiction and control of the Township of Montclair.

§ 140-2. Permit required.

- A. No person or organization shall film or permit filming on public or private land within the Township

of Montclair without first having obtained a permit from the office of the Municipal Clerk, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference to day or dates. No permit shall authorize filming for more than three consecutive days in any one location and in no event shall filming at one location within the Township exceed a total of six days in any one calendar year, regardless of the number of permits utilized in reaching this six-day maximum. Either or both of the three-consecutive-day and the six-day limitations may be extended only if the filming requested constitutes a major motion picture as defined by § 140-11 of this chapter. Said permit must be readily available for inspection by township officials at all times at the site of the filming.

- B. All permits shall be applied for and obtained from the office of the Municipal Clerk during normal business hours. Applications for such permits shall be in a form approved by the Municipal Clerk and be accompanied by a permit fee in the amount established by this chapter in § 140-12 herein.
- C. If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the dates specified, the Municipal Clerk may, at the request of the applicant, issue a new permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this permit.

§ 140-3. Issuance of permits.

- A. No permits will be issued by the Municipal Clerk unless applied for prior to five days before the requested shooting date; provided, however, that the Township Manager may waive the five-day period if, in his judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.
- B. No permit shall be issued for filming upon public lands unless the applicant shall provide the Township with satisfactory proof of the following:
 - (1) Proof of insurance coverage as follows:
 - (a) For bodily injury to any one person in the amount of \$500,000 and any occurrence in the aggregate amount of \$1,000,000.
 - (b) For property damage for each occurrence in the aggregate amount of \$300,000.
 - (2) An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Township of Montclair from any and all liability, expense, claim or damages resulting from the use of public lands.
 - (3) The posting of cash of \$500 or a maintenance bond of \$500 running in favor of the Township and protecting and insuring that the location utilized will be left after filming, in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all Township ordinances, laws and regulations will be followed. Within 21 days of the completion of the filming, the Township will return the bond if there has been no damage to public property or public expense caused by the filming. [Amended 9-21-2010 by Ord. No. O-10-055]
 - (4) The hiring of an off-duty Montclair police officer for the times indicated on the permit.
- C. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Montclair Police Department with respect thereto.

§ 140-4. Interference with public activity; notice of filming.

- A. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets.
- B. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands. Where the applicant's production activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, these parties shall be given written notice of the filming at least three days prior to the requested shooting date and be informed that objections may be filed with the Municipal Clerk, said objections to form a part of applicant's application and be considered in the review of the same. Proof of service of notification to adjacent owners shall be submitted to the Municipal Clerk within two days of the requested shooting date.

§ 140-5. Filming in residential zones.

Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m., provided that all requests for night scenes shall be approved in the permit to be granted in accordance with § 140-8 hereof. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

§ 140-6. Refusal to issue permit; employment of patrolmen and electrician.

- A. The Township Manager may refuse to issue a permit whenever he determines, on the basis of objective facts and after a review of the application and a report thereon by the Police Department and by other township agencies involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.
- B. Further, the Township reserves the right to require one or more on-site patrolmen in situations where the proposed production may impede the proper flow of traffic, the cost of said patrolman to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff.

§ 140-7. Appeals.

- A. Any person aggrieved by a decision of the Township Manager denying or revoking a permit or a person requesting relief pursuant to § 140-8 may appeal to the Township Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Manager.
- B. An appeal from the decision of the Manager shall be filed within 10 days of the Manager's decision. The Township Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the Township Council shall be in the form of a resolution supporting the decision of the Township Manager at the first regularly scheduled public meeting of the Township Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Manager shall be deemed to be reversed, and a permit shall be issued in conformity with the application or the relief pursuant to § 140-8 shall be deemed denied.

§ 140-8. Waiver of requirements of chapter by Manager.

The Township Manager may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Manager shall consider the following factors:

- A. Traffic congestion at the location caused by vehicles to be parked on the public street.
- B. Applicant's ability to remove film-related vehicles off the public streets.
- C. When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming.
- D. Nature of the film shoot itself; e.g., indoor or outdoors; day or night; on public or private lands.
- E. Prior experience of the film company/applicant with the Township, if any.
- F. Consultation with the Council-Ward representative wherein the filming is to take place.

§ 140-9. Copies of permit; inspections.

Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Prevention Bureau or other township inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instruction issued by the Fire Prevention Bureau or other township inspectors.

§ 140-10. Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Township for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the Township was prevented from earning because of filming.

§ 140-11. Special regulations for major motion pictures.

- A. When filming is requested with respect to a major motion picture, the approved location of such filming and approved duration of such filming by specific reference to day or dates may exceed three consecutive days and/or may exceed six days in duration if approved by the Township Manager in his or her discretion following a favorable review of the factors set forth in § 140-8 herein.
- B. Any days necessary to be used for setup and preparation for a major motion picture filming may, in the discretion of the Manager, be counted as a filming day where such setup is anticipated to involve one or more of the factors set forth in § 140-8 hereof.

§ 140-12. Fees.

The schedule of fees for the issuance of permits authorized by this chapter are as follows:

- A. Basic filming permit: \$150. Where an applicant requests a waiver of the provision of § 140-3A requiring expedited processing of a permit application within 24 hours of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$500. **[Amended 2-11-2008 by Ord. No. 08-03; 7-7-2009 by Ord. No. O-032-09]**
- B. Daily filming fee payable in addition to the basic filming permit: \$600 per day. **[Amended 7-7-2009 by Ord. No. O-032-09]**

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FILMING

- C. Daily filming fee payable for major motion picture: \$1,500 per day.
- D. Filming permit for nonprofit applicants filming for educational purposes (no daily rate required): \$25.

§ 140-13. Violations and penalties. [Amended 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.

Chapter 144**FIREARMS AND WEAPONS**

[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. 115 of the 1979 Code. Amendments noted where applicable.]

§ 144-1. Concealment or threatening display prohibited.

No person shall conceal about his or her person or his or her clothing or display in a threatening manner any dangerous or deadly weapon, including but not limited to any pistol, revolver, slingshot, cross knuckles, or knuckles of lead, brass or other metal, or any bowie knife or any knife resembling a bowie knife, or any knife with a switchblade or device whereby the blade or blades can be opened by a flick of a button, pressure on the handle or other mechanical contrivance.

§ 144-2. Sale of certain knives prohibited.

No person shall sell, offer for sale or display for sale any switchblade knife or knives having the appearance of a pocket knife, the blade or blades of which can be opened by a flick of a button, pressure on the handle or other mechanical device. Such knife is hereby declared to be a dangerous or deadly weapon within the meaning of § 144-1 above.

§ 144-3. Possession of certain weapons outside domicile; exceptions.

- A. No person shall have in his or her possession (except within his or her own domicile) or use a revolver or pistol of any description, shotgun or rifle which may be used for the explosion of cartridges, or any air gun, BB gun, gas-operated gun or spring gun, or any instrument, toy or weapon commonly known as the "peashooter," "slingshot" or "beany," or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth above or by any other name.
- B. Nothing contained in this section shall be construed to prohibit the possession of any type of gun or bow whatsoever when unloaded and properly cased during and while said gun or bow is being carried to or from any shooting gallery or range or to or from an area where hunting is allowed by law; nor to prohibit or forbid any law enforcement officers authorized to carry weapons while on duty from using or discharging such weapons where necessary while on duty and in the course of the discharge of their duties.
- C. It shall be unlawful to fire or discharge any firearms within the territorial limits of the Township of Montclair. Nothing contained in this subsection shall prevent the otherwise lawful firing or discharge of a firearm during the course of official duty by any of the persons enumerated N.J.S.A. 2C:39-6. **[Added 4-29-1997 by Ord. No. 97-15]**

§ 144-3.1. Definitions. [Added 10-19-1999 by Ord. No. 99-21]

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

COMBINATION HANDLE LOCK — A device that is part of the handgun which precludes the use of the handgun unless the combination tumblers are properly aligned.

DUTY-RELATED FIREARM — Any weapon which is authorized by any law enforcement agency to be utilized by their personnel in the performance of their official duties.

FIREARM — Any weapon which will, or is designed to or restored to, expel a projectile or projectiles by the action of any explosive; the frame or receiver of any such device; or any firearm muffler or silencer; provided, however, that such term shall not include:

A. **HANDGUN** — A firearm designed to be held and fired by the use of a single hand and includes a combination of parts from which such firearm can be assembled.

ORGANIZATION — A partnership, company, corporation or other business entity or any group or association of two or more persons united for a common purpose.

PERSON — Any individual, corporation, company, association, firm partnership, society, joint-stock company or organization of any kind.

SAFETY MECHANISM — A design adaptation or nondetachable accessory that lessens the likelihood of unanticipated use of the handgun by other than the owner of the handgun and those specifically authorized by the owner to use the handgun.

SOLENOID USE-LIMITATION DEVICE — A device, which precludes, by use of solenoid, the firing of the handgun unless a magnet of the appropriate strength is placed in proximity to the handle of the weapon.

TRIGGER LOCK — A device that, when locked in place by means of a key, prevents a potential user from pulling the trigger of the handgun without first removing the trigger lock by use of the trigger lock's key.

§ 144-3.2. Unregisterable firearms. [Added 10-19-1999 by Ord. No. 99-21]

A. No firearms identification card or permit shall be issued for any of the following types of firearms:

- (1) Sawed-off shot gun, machine gun or short-barreled rifle; or
- (2) Handguns and firearms, except:
 - (a) Those firearms and handguns lawfully registered to a person in the Township of Montclair prior to the effective date of this chapter; or
 - (b) Those applications for purchase and possession of handguns or firearms filed subsequent to the effective date of this chapter where evidence is submitted demonstrating that the purchase of the handgun shall also include acquisition of a safety mechanism to hinder the use of the handgun by unauthorized users. Such devices shall include, but shall not be limited to, trigger locks, combination handle locks and solenoid use-limitation devices.

B. The provisions of this section shall not apply to duty-related firearms as defined by this chapter.

C. Any person who receives, through inheritance, any handgun or firearm validly registered pursuant to this chapter will be eligible to reregister such firearm within 60 days after obtaining possession or title, provided that such person shall be qualified to do so in accordance with this chapter.

§ 144-3.3. Sale of handguns without childproofing or safety devices prohibited. [Added 10-19-1999 by Ord. No. 99-21]

Except as otherwise provided by law, it shall be unlawful for any person or organization within the Township of Montclair to sell, barter or give away to any person any handgun or firearm which does not contain a safety mechanism to hinder the use of the handgun by unauthorized users. Such devices shall include, but shall not be limited to, trigger locks, combination handle locks and solenoid use-limitation devices as defined herein.

§ 144-4. 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.

FIRE HOSES

Chapter 148

FIRE HOSES

[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 Art. VI of Ch. 166 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 153.

Fire safety — See Ch. 157.

§ 148-1. Driving over fire hose prohibited.

No person shall drive a vehicle of any nature or description over any line or lines of fire hose lying in or upon the streets or highways of the Township.

§ 148-2. 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.

MONTCLAIR CODE

Chapter 153

FIRE PREVENTION

[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. 119 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 27.

Hazardous substances — See Ch. 182.

Alarms, Burglar and Fire — See Ch. 71.

Multifamily buildings — See Ch. 213.

Brush, grass and weeds — See Ch. 100.

Property maintenance — See Ch. 247.

Unfit buildings — See Ch. 108.

Zoning — See Ch. 347.

Uniform construction codes — See Ch. 121.

ARTICLE I
Administration and Enforcement

§ 153-1. Recognized standards and practices.

- A. The recognized standards and practices for the prevention of fire, except where they are inconsistent with the Code of the Township of Montclair or with other ordinances of the Township, are hereby declared to be the standard practices and requirements set forth in the BOCA Basic Fire Prevention Code, 1984 Edition. Said regulations, standards and practices, requirements and specifications are hereby incorporated in and made part of this chapter as though set forth in full herein. Copies thereof have been filed and shall remain on file and open to public inspection in the office of the Municipal Clerk. **[Amended 3-3-1981 by Ord. No. 81-9; 2-21-1984 by Ord. No. 84-9]**
- B. The BOCA Fire Prevention Code is hereby amended and supplemented by adding to Section F-408.0, Fire Alarm Systems, a new paragraph F-408.4, Smoke detectors; carbon monoxide detectors and portable fire extinguishers, to read as follows: **[Amended 4-15-1980 by Ord. No. 80-14; 10-15-1991 by Ord. No. 91-49; 5-23-2000 by Ord. No. 00-19; 2-27-2001 by Ord. No. 01-10; 6-10-2003 by Ord. No. 03-37; 6-13-2006 by Ord. No. 06-35]**

F-408.4 Smoke detectors; carbon monoxide detectors and portable fire extinguishers: Every dwelling unit, room or suite subject to this section shall be provided with a minimum of one approved smoke detector and carbon monoxide detector on each story or level, and one portable fire extinguisher, installed in a manner and location approved by the Fire Prevention Bureau of the Township of Montclair.

F-408.4.1 Each dwelling unit in a single-family, two-family or multifamily residence, each guest room or suite in a hotel, motel, rooming house or boardinghouse and each suite or sleeping area in a dormitory shall be subject to the terms of this section.

No property shall be exempt from the installation of the carbon monoxide detector unless all of the following shall apply:

- (1) The premises shall have no attached parking garage or carport;
- (2) The dwelling units shall be powered and heated by electricity only;
- (3) There are no fuel-burning appliances within the premises; however, if a common area boiler, water heater or similar appliance is present, then all dwelling units adjacent to the common chimney or vent shall install the carbon monoxide detectors within the dwelling unit and the room which houses the appliance.

F-408.4.2 No structure containing a unit, room, suite or area subject hereto shall be sold after the effective date of this section without first having met its requirements. No dwelling unit, room, suite or area subject hereto shall be leased or rented after the effective date of this section without first having met its requirements. In the absence of sale or rental, the owner of any dwelling unit, room, suite or area subject hereto shall comply with the terms of this section no later than April 7, 2003.

F-408.4.3 An approved smoke detector and carbon monoxide detector shall be a photoelectric and/or an ionization type with Underwriters' Laboratories or Factory Mutual Engineering Corporation label affixed to it.

F-408.4.4 The installation of smoke detectors and carbon monoxide detectors, either battery-operated or hard wire, shall be made in accordance with the regulations of the Fire Prevention Bureau and the requirements of the manufacturer, both as to the number of detectors needed for the area to be protected and as to the method employed. All such equipment and installations shall comply with regulations established under N.F.P.A. Standard No. 74 and the State Uniform Construction Code Act.⁷¹

F-408.4.5 Inspection of smoke detector and carbon monoxide detector and portable fire extinguisher installations prior to the conveyance of title or the leasing, as the case may be, shall be made by the Fire Prevention Bureau and, where appropriate, by the Electrical Subcode Official.

F-408.4.6 It shall be the sole responsibility of the owner to maintain every smoke detector, carbon monoxide detector and portable fire extinguisher in working order after it has been inspected by the Fire Prevention Bureau.

F-408.4.7 The fee for the placement and final certification by the Fire Prevention Bureau shall be \$75 for one-family and two-family dwellings, \$100 for three- to six-family dwellings, \$150 for seven- to fifteen-family dwellings and \$225 for over 15 families.

F-408.4.8 The penalty for the violation of any provision of this section shall be a fine not exceeding \$1,000 or imprisonment in the county jail for not more than 90 days, or both. Noncompliance as to each dwelling unit, room, suite or area in the same structure shall constitute a separate violation.

- C. The BOCA Fire Prevention Code is hereby amended and supplemented by adding to Section F-2900.0, General, a new paragraph F-2900.4, Prohibited installations, to read as follows:

F-2900.4 Prohibited installations: No tank for the storage of flammable liquids shall be installed in any residential zone as delineated on the Township Zoning Map.

§ 153-2. Fire hazards prohibited.

No person in possession of or having control of any building or premises in the Township shall permit or allow therein or thereon any fire hazard or any installation, construction, equipment, matter or thing which, by reason of not being installed, constructed or maintained according to recognized standards and practices for the prevention of fire, creates or produces a danger to persons or property from fire.

§ 153-3. Enforcement by Fire Chief. [Amended 5-23-2000 by Ord. No. 00-19]

- A. It shall be the duty of the Chief of the Fire Department or the Fire Official of the Township, hereinafter in this chapter referred to as the "Fire Chief" or "Fire Official," to enforce all laws and ordinances relating to:
- (1) The prevention of fires.
 - (2) The storage and use of explosives and flammables.
 - (3) The installation and maintenance of private fire alarm systems and fire-extinguishing

71. Editor's Note: See N.J.S.A. 52:27D-119 et seq.

equipment.⁷²

- (4) The maintenance and regulation of fire escapes.
 - (5) The means and adequacy of exit in case of fire from all buildings and other places in which persons work, live or congregate for any purpose.
- B. It shall also be the duty of the Fire Chief or Fire Official to investigate the cause, origin and circumstances of fires.

§ 153-3.1. Fire lanes and fire zones. [Added 6-9-2015 by Ord. No. O-15-014]

- A. The Fire Official in the Township of Montclair is authorized to designate fire zones and fire lanes on property devoted to public use or on which the public is invited or has access for vehicular traffic, subject to inclusion in § 327-17.1, Fire zones, or § 327-17.2, Fire lanes. These fire lanes/zones shall be established for the purpose of ensuring that fire equipment and other emergency vehicles will have unobstructed means to enter and/or operate during an emergency.
- B. Fire lanes and fire zones shall be consistent with the State of New Jersey Uniform Fire Code 502.1 and 503.1.1.
- C. No stopping, standing or parking is permitted at any time in a fire zone or fire lane.
- D. Fire zone and fire lanes shall be marked with striping and signage delineating the fire zone or fire lane and prohibiting stopping, standing or parking at all times.
- E. This section is enforceable by the Montclair Police Department, Fire Department, code enforcement and parking enforcement officers.
- F. The cost of installation of required signage and striping per the Fire Code on private property will be the responsibility of the property owner.

§ 153-4. Designation of inspectors. [Amended 5-23-2000 by Ord. No. 00-19]

The Fire Chief or Fire Official may designate as inspectors such members of the Fire Department as he or she shall deem necessary from time to time to aid him or her in the enforcement of this chapter and in the making of the inspections herein required.

§ 153-5. Right of entry.

The Fire Chief or his or her authorized representatives may at all reasonable hours enter any building or premises for the purpose of making any inspection or investigation which he or she may deem necessary for the prevention of fire and to secure the safety of persons from fire.

§ 153-5.1. Key boxes. [Added 5-22-2001 by Ord. No. 01-35]

- A. It is the purpose of this section to allow the Fire Department and its personnel to gain immediate and reliable access to structures within the Township in order to ensure proper lifesaving and other fire-fighting purposes, where access to such structures is unduly difficult because of secured external or internal openings or other hazards.

72. Editor's Note: See Ch. 71, Alarm Systems.

- B. Key box required. When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or for firefighting purposes, the Fire Official or Fire Subcode Official, where appropriate, shall require a key box to be installed in an accessible location. The key box shall be a type approved by the Fire Official or Fire Subcode Official, as appropriate, so that all key access of this type within the Township of Montclair may be accomplished with one system. The key box shall contain keys necessary to gain access as required by the Fire Department.
- C. Installation.
- (1) When a building within the Township of Montclair is protected by an automatic fire suppression or standpipe system, it shall be equipped with a key box. The key box shall be at a location approved by the Township of Montclair Fire Official. The key box shall be a UL type approved by the Fire Official.
 - (2) When a building is protected by an automatic alarm system, and/or access to or within a building, or an area within that building, is unduly difficult because of secured openings, and where immediate access is necessary for lifesaving or fire-fighting purposes, the Fire Official may require a key box to be installed at a location approved by the Township of Montclair Fire Official. The key box shall be a UL type approved by the Fire Official.
 - (3) The Fire Subcode/Fire Official may require a key box tamper switch connected to the building's fire alarm system.
 - (4) When a building is protected by an automatic sprinkler system or standpipe system and the Fire Department connection is exposed to undue vandalism the Fire Official may require that a Fire Department connection security cap(s) be installed. The Fire Department connection security cap(s) shall be a type approved by the Fire Official.
 - (5) This shall not apply to owner occupied one- and two-family dwellings.
- D. Key box contents. Where required, the rapid key boxes shall contain the following:
- (1) Keys to locked points of egress, whether in the interior or exterior of such buildings.
 - (2) Keys to the locked mechanical rooms.
 - (3) Keys to the locked elevator rooms.
 - (4) Keys to the elevator controls.
- E. Enforcement. The enforcement agent for the provisions of this section shall be the responsibility of the Fire Official or Fire Subcode Official in accordance with the provisions of the Uniform Fire Code of the State of New Jersey.
- F. Time for compliance. All existing building owners, managers or agents shall comply within six months of service of notice of required compliance. All newly constructed buildings not yet occupied or buildings currently under construction and all buildings or businesses applying for a certificate of occupancy shall comply immediately as a condition for the issuance of such certificate.

§ 153-6. Inspection of installations, appliances or processes.

The Fire Chief or his or her authorized representatives shall inspect all hazardous manufacturing processes, storage or installation of gases, explosives and flammable materials, all interior fire alarms and automatic

sprinkler systems and such other hazards or appliances as he or she shall deem advisable in the prevention of fire. He or she shall make such orders as may be necessary to make the aforesaid things or any of them comply with recognized standards and practices for the prevention of fires.

§ 153-7. Inspection of buildings and premises.

The Fire Chief or his or her authorized representatives shall inspect all buildings and premises for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or for any violations of the provisions and intent of this chapter. He or she shall make such orders as may be necessary to make the aforesaid buildings and premises or any of them comply with recognized standards and practices for the prevention of fire.

§ 153-8. Orders to remove hazards or remedy conditions.

Whenever the Fire Chief or his or her authorized representatives shall find in any building or upon any premises the following dangerous or hazardous conditions or materials, the Fire Chief or his or her authorized representatives shall order such dangerous conditions or materials to be removed or remedied in such manner as may be specified by the Fire Chief:

- A. Dangerous or unlawful amounts of combustible or explosive or otherwise hazardous materials.
- B. Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible or explosive or otherwise hazardous materials.
- C. Dangerous accumulations of rubbish, wastepaper, boxes, shavings or other highly flammable materials.
- D. Accumulations of dust or waste material in air-conditioning or ventilating systems or of grease in kitchen or other exhaust ducts.
- E. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire.
- F. Any building or other structure which, for want of repairs, lack of sufficient fire escapes or other exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a hazardous condition.

§ 153-9. Duty to correct conditions. [Amended 5-23-2000 by Ord. No. 00-19]

The owner, occupant or person in charge of or managing any building or premises shall forthwith, after notice from the Fire Chief or Fire Official so to do, correct any condition in such building or premises so that the premises, building, processes or materials shall be in such condition as to comply with the recognized standards and practices for the prevention of fire.

§ 153-10. Service of orders; compliance; review.

- A. An order made under the provisions of §§ 153-6 to 153-9, both inclusive, shall be in writing and shall be served upon the occupant of the premises to whom it is directed by delivering a copy thereof to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises. In case no such person is found upon the premises, service shall be made by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served by delivering

to and leaving with the said person a copy of said order or, if the owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post office address by registered or certified mail.

- B. Any such order shall forthwith be complied with by the owner or occupant of such premises or building. If such order is made by an inspector, such owner or occupant may, within 24 hours, appeal to the Fire Chief. The Fire Chief, within five days, shall review the order and file his or her decision thereon. Unless by his or her authority the order is revoked or modified, it shall remain in full force and be complied with within the time fixed in said order or decision of the Fire Chief.
- C. Any such owner or occupant may, within five days after the making or affirming of any such order by the Fire Chief, file his or her petition with the Township Council requesting a review of such order. It shall be the duty of the Board to hear the same within not less than five days nor more than 14 days from the time the petition is filed and to make such order in the premises as right and justice may require. Such decision shall be final.

§ 153-11. Effect of noncompliance with orders.

Any person who is required by the terms of this chapter to comply with any order of the Fire Chief made pursuant to the provisions of this chapter and fails or neglects to comply with same shall be deemed to have violated the provisions of this chapter and to be liable to the penalty provisions of § 153-12 hereof.⁷³

§ 153-11.1. Fees for annual on-site inspections of non-life-hazard uses. [Added 6-13-2006 by Ord. No. 06-32; amended 7-25-2006 by Ord. No. 06-41]

The following fee schedule will apply to all annual inspections of non-life-hazard uses performed by the Fire Department:

A. Fee schedule.

Use	Fee
Eating establishments, other than life-hazard uses: 1 to 49 persons seated/take-out only	\$30
Public assembly buildings: 50 to 99 people other than life-hazard uses	\$40
Office buildings, other than life-hazard uses: 1 to 7 offices	\$40
Office buildings, other than life-hazard uses: 8 to 16 offices	\$70
Office buildings, other than life-hazard uses: 17 or more offices	\$170
Supermarkets/food marts/grocery stores having less than 10,000 square feet	\$90
Hardware/appliance/furniture stores having less than 10,000 square feet	\$90

73. Editor's Note: Former § 119-12, Fire drills in educational and institutional occupancies, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

Use	Fee
Retail stores/mercantile buildings having less than 7,000 square feet	\$30
Retail stores/mercantile buildings having more than 7,000 but less than 10,000 square feet	\$70
Retail stores/mercantile buildings having 10,000 square feet or more	\$170
Any other commercial/business occupancy with less than 1,000 square feet	\$30
Any other commercial/business occupancy with 1,000 to 5,999 square feet	\$40
Any other commercial/business occupancy with 6,000 to 9,999 square feet	\$70
Any other commercial/business occupancy with 10,000 square feet or more	\$170

B. Non-life-hazard use (LHU) mixed-use properties.

Use	Fee
Mixed use, commercial/business with less than 3 dwelling units	\$70
Mixed use, commercial/business with 3 to 7 dwelling units	\$90
Mixed use, commercial/business with 8 to 17 dwelling units	\$170
Mixed use, commercial/business with more than 17 dwelling units	\$270

C. Non-life-hazard use (LHU) multiple-dwelling properties.

Use	Fee
Multiple dwelling with common area having 3 to 7 dwelling units	\$70
Multiple dwelling with common area having 8 to 16 dwelling units	\$90
Multiple dwelling with common area having 17 to 25 dwelling units	\$170
Multiple dwelling with common area having more than 25 dwelling units	\$270

D. All fees are due within 30 days of billing.

§ 153-12. 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.

ARTICLE II
General Prohibitions

§ 153-13. False alarms prohibited.

No person shall, by outcries, ringing of bells, sounding of alarm or otherwise, raise a false alarm of fire.⁷⁴

§ 153-14. Restrictions on open burning.

- A. Except as authorized by Subsection B hereof, there shall be no open burning of any combustible materials unless permission has been granted by the Fire Chief or his or her duly designated representative, and then such burning shall be conducted in the manner and at the time and place specified by him.
- B. An occupant of premises may burn leaves, diseased plant life or garden trimmings which grew on such premises, provided that such burning takes place:
- (1) Only during daylight hours.
 - (2) Under the continuous supervision of a competent adult person who shall completely extinguish the fire when he or she leaves the immediate scene.
 - (3) When atmospheric conditions are such that such burning will not be unsafe or will not create a nuisance.
 - (4) Off the paved area of the street.
 - (5) Away from overhanging branches of any tree.
 - (6) At least 50 feet away from any structure, or where the fire is contained in an approved metal waste burner with the top closed when the burning is being done, in a safe position not less than 15 feet away from any structure.
 - (7) Where fire prevention safeguards, such as fire extinguishers or a garden hose of sufficient length charged with water, are provided to ensure protection against the fire spreading to within 50 feet of any structure.
- C. The Fire Chief or his or her duly designated representative may order any fires, including any fire theretofore specifically authorized by him, immediately extinguished when, in his or her opinion, such fire is or may become hazardous to persons or property or a nuisance to neighboring residents.⁷⁵

§ 153-15. Handling of readily combustible materials.

No person making, using, storing or having charge or control of any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw or combustible trash, waste or fragments shall fail, neglect or refuse at the close of each day to cause all such material which is not compactly baled and stacked in an orderly manner to be removed from the premises or stored in suitable vaults or in metal or metal-lined covered receptacles or bins. The Fire Chief may require suitable baling presses to be installed in stores, apartment buildings, factories and similar places where accumulations of paper and waste materials are not removed at least

74. Editor's Note: Former § 119-14, Prohibited accumulations; vegetation, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

75. Editor's Note: Former § 119-16, Fire-resistant receptacles for certain combustibles, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

every second day.

§ 153-16. Storage of empty packing containers.

The storage of empty packing cases, boxes, barrels or other similar combustible containers is forbidden, except in the open, without permission from the Chief. Permission shall not be required for the storage, within a manufacturing or other establishment, of sufficient packing cases, boxes, barrels or other similar containers to properly carry on its operations, but such storage shall be orderly and not so located as to endanger exit from the building. Storage in the open of packing cases, boxes, barrels or other similar combustible containers shall not be more than 20 feet in height and shall be at least 50 feet from the nearest building. All such storage shall be in a compact and orderly manner.

§ 153-17. Flammable decorative materials.

Highly flammable materials, such as cotton batting, straw, dry vines, leaves, trees, artificial flowers or shrubbery and foam plastic materials, shall not be used for decorative purposes in show windows or other parts of mercantile and institutional occupancies unless flameproof. Electric light bulbs in mercantile and institutional occupancies shall not be decorated with paper or other combustible materials unless such materials shall first have been rendered flameproof.

§ 153-18. Use of open flame.

- A. No heating apparatus with an open flame and no artificial lighting system other than incandescent electric lights shall be used in any warehouse for the storage of rags, excelsior, hair or other flammable or combustible material, nor in any shop or factory used for the manufacture, repair or renovating of mattresses or bedding, nor in any establishment for the upholstering of furniture.
- B. No person shall take an open flame into any building or other place where highly flammable, combustible or explosive material is kept unless such light or flame shall be well secured in a glass globe, wire mesh cage or similar approved device.

§ 153-19. Maintenance of chimneys, incinerators and heating appliances.

- A. All chimneys, smokestacks or similar devices for conveying smoke or hot gases to the outer air and the stoves, furnaces, incinerators, fireboxes or boilers to which they are connected shall be constructed and maintained in such a manner as not to create a hazardous condition.
- B. Commercial and industrial-type incinerators used for burning or rubbish or other readily combustible solid waste material and flue-fed incinerators shall be provided with approved spark arresters or other effective means for arresting sparks and fly particles.

§ 153-20. Trapdoors and shaftways.

- A. All trapdoors, except those which are automatic in their operation, in any factory building or buildings used for storage, shall be closed at the completion of the business of each day.
- B. Every outside window in a building used for manufacturing purposes or for storage, which opens directly on any hoistway or other vertical means of communication between two or more floors in such building, shall be plainly marked with the word "shaftway" in red letters at least six inches high on a white background. Such warning sign shall be so placed as to be easily discernible from the outside of the building. Every door or window opening on such shaftway from the interior of the building, unless the construction of the partition surrounding the shaftway is of such distinctive nature

as to make its purpose evident at a glance, shall be similarly marked with the warning "SHAFTWAY" so placed as to be easily visible to anyone approaching the shaftway from the interior of the building.

§ 153-21. Storage of Christmas trees.

Christmas trees shall be stored as directed by the Fire Chief to avoid injury to life or property by fire.

§ 153-22. Radio and television antennas.

No radio or television antenna or other wire suspended over a flat roof shall be erected less than eight feet clear above the roof nor so as to become a serious obstruction to the Fire Department.⁷⁶

76. Editor's Note: Former Article II, Hazardous Chemicals, and Article III, Welding and Cutting Work Involving Heat, which immediately followed this section, were deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE III
Transporting Flammable Liquids

§ 153-23. Attendance of vehicles required; exception.

No truck used for transporting flammable liquids in bulk shall be left unattended on any street, highway, avenue or alley. Permission is granted, however, for stops for meals during the day or at night if the street is well lighted at point of parking.

§ 153-24. Parking restrictions.

Trucks used for transporting flammable liquids may be parked in open parking lots or on private property or in fireproof buildings for a period not exceeding two hours; provided, however, that trucks containing Class III liquids may be parked on the owner's business premises in buildings approved for such occupancy by the Fire Chief or his or her duly authorized agent.

ARTICLE IV
Fuel Oil and Kerosene Storage

§ 153-25. Installation of tanks or containers in buildings.

- A. No person shall store or keep in any building more than one approved twenty-five-gallon container of fuel oil or kerosene unless the container is so arranged and secured as to prevent tipping and the liquid is withdrawn from the container by an approved hand pump. If any such storage container is used for the purpose of filling other containers, said storage container shall not exceed 60 gallons' individual capacity.⁷⁷
- B. No person shall deliver or fill with fuel oil or kerosene any container located in any building, which container exceeds a capacity of 25 gallons unless the container is so arranged and secured as to prevent tipping and the liquid is withdrawn from the container by an approved hand pump. If any such storage container is used for the purpose of filling other containers, such storage container shall not exceed 60 gallons' individual capacity.
- C. Nothing in this section is intended to prohibit the storage of fuel oil in approved tanks of 275 gallons' capacity used for the purpose of supplying fuel oil to stationary oil burners in central heating units.

§ 153-26. Outside storage requirements.

No person shall store or keep outside any building more than five gallons of fuel oil or kerosene unless the container is so arranged and secured as to prevent tipping and is equipped with a self-closing nozzle or an approved hand pump.

§ 153-27. Use of glass containers prohibited.

No person shall store or sell kerosene or range or fuel oil in glass containers.

§ 153-28. Filling or delivery near open flame prohibited.

No person shall fill any container with or deliver any fuel oil or kerosene in or upon any premises, whether within or without a building, where, in the filling or delivery of such fuel oil or kerosene, it is necessary to pass an open fire or flame of any kind.

77. Editor's Note: Former § 119-33, Storage in buildings above lowest floor, which immediately preceded this section, was deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE V
Fuel-Burning Appliances Using Liquid Fuels

§ 153-29. Use of certain fuels prohibited.

No person shall use or shall cause, suffer or permit the use in any building within the Township of any fuel-burning appliance using liquid fuel having a flash point at or below 70° F., such as gasoline, naphtha, ether, ethyl alcohol or methyl alcohol.

§ 153-30. Appliance installation requirements.

No person shall use or shall cause, suffer or permit the use in any building within the Township of any fuel-burning appliance using liquid fuel having a flash point above 70° F., such as kerosene and fuel oil, other than central heating systems permanently affixed to the building, unless such appliances comply with the following requirements:

- A. Even such appliance shall be securely affixed to the floor.
- B. Every such appliance shall rest on sheet metal, asbestos or other equally noncombustible material of a thickness of at least 3/8 of an inch, which shall extend at least six inches outward from all sides of such appliance.
- C. Every such appliance shall not be placed any nearer than 12 inches to any wooden partition or other combustible material.
- D. Every such appliance shall be connected by a smoke pipe to a permanent chimney flue in compliance with the terms and provisions of the Building Code⁷⁸ of the Township governing installation of smoke pipes to chimney flues.⁷⁹

78. Editor's Note: The Building Code was superseded by the adoption of the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq.

79. Editor's Note: Former Article VII, Underground Storage of Petroleum Products, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE VI

Nurseries, Nursing Homes, Boarding Homes for Sheltered Care and Convalescent Homes**§ 153-31. Definitions.**

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

BOARDING HOMES FOR SHELTERED CARE — Any private establishment which provides 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 not including nursing care, to any one or more persons.

CONVALESCENT HOME — Any privately operated establishment, whether operated for profit or not, devoted to the care, treatment or nursing of two or more nonrelated individuals during the recuperation stage of an illness or injury. This definition shall not be construed to imply or permit the practice of general hospital functions, such as major surgical operations, or the rendering of service beyond nursing care.

FAMILY DAY-CARE HOME — A day-care home for children which has been registered with the State of New Jersey pursuant to the Family Day Care Provider Registration Act of 1987.⁸⁰ **[Added 3-22-1988 by Ord. No. 88-9]**

NURSERY — An establishment which is not operated, maintained, licensed or regulated by the State Division of Youth and Family Services, where children under six years of age are kept during the daytime while parent or parents are at work or otherwise engaged, or where four or more children under six years of age are lodged at a stipulated rate of pay. Such an establishment may be privately operated and supported by fees charged for the service, or it may be an establishment owned and operated by the municipality. **[Amended 3-22-1988 by Ord. No. 88-9]**

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.⁸¹

§ 153-32. Family day-care homes. [Added 3-22-1988 by Ord. No. 88-12]

Family day-care homes shall comply with all provisions of the National Fire Prevention Association's Life Safety Code, Section 10-9, Family Day Care Homes.

§ 153-33. Employee instruction for fire emergency duties.

All employees shall be instructed periodically in the fire protection facilities of the institution, in the use of the fire-fighting apparatus and in the methods of removing patients and inmates from the building.

§ 153-34. Inspection of buildings, correction orders.

Any building in the Township conducted or operated as a nursery, nursing home, boarding home for sheltered care or convalescent home may be inspected from time to time by any officer of the Fire Department. If said inspections disclose conditions existing in the building which tend to create fire hazards

80. Editor's Note: N.J.S.A. 30:5B-16 through 30:5B-25.

81. Editor's Note: Former 119-50, Fire safety specifications for buildings, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

or conditions contrary to the provisions and requirements of this article, such condition or conditions shall be corrected within 30 days after notice and order in writing to the owner or operator of the establishment or within such other time as may be required by the Fire Chief or his or her duly authorized agent. Such notice and order shall be served in the manner provided in § 153-10.

§ 153-35. Review of orders.

Orders issued under § 153-34 may be reviewed in the manner provided in § 153-10.

MONTCLAIR CODE

Chapter 157

FIRE SAFETY ACT ENFORCEMENT

[HISTORY: Adopted by the Council of the Township of Montclair 8-6-1985 by Ord. No. 85-30 (Ch. 54 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 27.

Hazardous substances — See Ch. 182.

Fire prevention — See Ch. 153.

Nuisances — See Ch. 218.

§ 157-1. Local enforcement agency.

The Uniform Fire Safety Act (N.J.S.A. 52:27D-192 et seq.) shall be enforced in the Township of Montclair by the Montclair Fire Department pursuant to the provisions of N.J.S.A. 52:27D-202a.

§ 157-2. General duties.

The Montclair Fire Department shall enforce the Uniform Fire Safety Act and the regulations adopted thereunder in all buildings, structures and premises within the Township of Montclair.

§ 157-3. Life hazard uses.

The Montclair Fire Department shall make periodic inspections of life hazard uses required by the Uniform Fire Safety Act or any regulations promulgated thereunder by the Commissioner of the Department of Community Affairs.

§ 157-4. Designation of fire official.

The local enforcement shall be under the direct supervision of a fire official who shall be designated by the Chief of the Fire Department.

§ 157-5. Appointment of inspectors and employees.

Such inspectors and other employees as may be necessary in the local enforcement of the Uniform Fire Safety Act shall be appointed by the Township Manager and assigned by the Fire Chief. Such inspectors and employees shall be under the supervision of the fire official.

FLAGS

Chapter 159

FLAGS

**[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

**Display of Flags on Township Flagpoles
[Adopted 1-28-2025 by Ord. No. O-25-01]****§ 159-1. Township authorized to display flags.**

In addition to the flag of the United States, the Township may display such additional flags on Township-owned flagpoles on public buildings and properties as the Township Council may authorize, by resolution, as a form of government speech, provided the display of same shall not show religious or political preference.

§ 159-2. Prohibited flags.

The following flags are not allowed and will not be commemorative flags for purposes of this article:

- A. Flags of a particular religious movement or creed; and
- B. Flags of other governments or nations with the exception of a sister city of Montclair, which may be displayed in conjunction with an event involving the sister city.

§ 159-3. Flag size.

All commemorative flags must be smaller in size than the American flag, the New Jersey State flag, and the POW/MIA flag that is displayed.

§ 159-4. Flagpole use exclusive to Township.

The Township's flagpoles are not intended to serve as a forum for free expression by the public. Rather, the Township's flagpoles are to be used exclusively by the Township in compliance with federal and state law. Where the Council may display a commemorative flag as a form of government expression, the Township will not display a commemorative flag based on a request from a third party, nor will the Township use its flagpoles to sponsor the expression of a third party but will display flags as set forth by federal or state action.

§ 159-5. Display without authorization prohibited.

No person shall display or place upon any flagpole owned by the Township of Montclair any flag or other object not authorized as an expression of government speech by the Township Council by way of resolution.

§ 159-6. Monuments and memorials.

Owing to their very nature as expressive locations meant for contemplation and reflection, monuments and memorials shall not be deemed locations for flying commemorative flags via resolution.

§ 159-7. Permitted flags.

In addition to the flag of the United States and such other flags as may be authorized by resolution of the Township Council, the following flags are hereby permitted to be displayed upon flagpoles owned by the Township of Montclair as a form of expression of government speech, in the manner set forth above:

- A. The flag of the State of New Jersey.

- B. The flag of the County of Essex.
- C. The flag of the Township of Montclair.
- D. The POW/MIA (Prisoner of War/Missing in Action) flag, as provided in Title 36, Chapter 9, Section 902 of the United States Code (36 U.S.C. § 902).
- E. The KIA (Killed in Action) flag (required by P.L. 2017, c. 188⁸²).

§ 159-8. Repealer; severability; when effective.

- A. All ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.
- B. If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this article.
- C. This article shall take effect immediately upon final passage, approval, and publication as required by law.

82. Editor's Note: See N.J.S.A. 52:3-14.

FLOOD DAMAGE PREVENTION

Chapter 161

FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Mayor and Council of the Township of Montclair 4-25-2023 by Ord. No. O-23-15.⁸³ Amendments noted where applicable.]

83. Editor's Note: This ordinance also repealed former Ch. 161, Flood Damage Prevention, adopted by the Council of the Township of Montclair 3-10-2020 by Ord. No. O-20-03.

ARTICLE I
Scope and Administration

§ 161-1. Title.

These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as "the Floodplain Management Regulations of the Township of Montclair" (hereinafter "these regulations").

§ 161-2. Scope.

These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Article II of these regulations.

§ 161-3. Purposes and objectives.

The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- A. Protect human life and health.
- B. Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- C. Manage the alteration of natural floodplains, stream channels and shorelines.
- D. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- E. Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- F. Contribute to improved construction techniques in the floodplain.
- G. Minimize damage to public and private facilities and utilities.
- H. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- I. Minimize the need for rescue and relief efforts associated with flooding.
- J. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- K. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- L. Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

§ 161-4. Coordination with building codes.

Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Township of Montclair administer and enforce the state building codes, the Council of the Township of Montclair does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

§ 161-5. Ordinary building maintenance and minor work.

Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including nonstructural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc., shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the substantial damage and substantial improvement § 161-26 of this chapter.

§ 161-6. Warning.

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

§ 161-7. Other laws.

The provisions of these regulations shall not be deemed to nullify any provisions of local, state, or federal law.

§ 161-8. Violations and penalties for noncompliance.

- A. No structure or land shall hereafter be constructed, relocated to, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this chapter or fails to comply with any of its requirements shall be subject to one or more of the following: a fine of not more than \$1,250, imprisonment for a term not exceeding 90 days or a period of community service not exceeding 90 days.
- B. Each day in which a violation of this chapter exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a thirty-day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.
- C. Any person who is convicted of violating this chapter within one year of the date of a previous

violation of the this chapter and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of this chapter.

§ 161-8.1. Solid waste disposal in a flood hazard area.

Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

§ 161-9. Abrogation and greater restrictions.

These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances, including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

ARTICLE II Applicability

§ 161-10. General.

These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

§ 161-11. Establishment of flood hazard areas.

The Township of Montclair was accepted for participation in the National Flood Insurance Program on September 15, 1977. The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all federal, state, and local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA special flood hazard area. Maps and studies that establish flood hazard areas are on file at the Township of Montclair Department of Community Services 219 North Fullerton Avenue, Montclair, New Jersey. The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the best available flood hazard data area:

- A. Effective flood insurance study. Special flood hazard areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study Essex County, New Jersey (All Jurisdictions) dated April 3, 2020, and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 161-11(A) whose effective date is June 4, 2007, and April 3, 2020, are hereby adopted by reference.

Table 161-11(A)

Map Panel No.	Effective Date	Suffix	Map Panel No.	Effective Date	Suffix
34013C0102	April 3, 2020	G	34013C0104	April 3, 2020	G
34013C0103	June 4, 2007	F	34013C0106	April 3, 2020	G
34013C0108	April 3, 2020	G	34013C0112	April 3, 2020	G
34013C0111	June 4, 2007	F			

- B. Federal best available information. The Township of Montclair shall utilize Federal flood information as listed in Table 161-11(B) that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include, but is not limited to, preliminary flood elevation guidance from FEMA (such as advisory flood hazard area maps, work maps or preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this chapter must also be considered. These studies are listed on FEMA's Map

Service Center. This information shall be used for floodplain regulation purposes only.

Table 161-11(B)

Map Panel No.	Preliminary Date	Map Panel No.	Preliminary Date
None as of the date of this chapter			

- C. Other best available data. The Township of Montclair shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Township of Montclair. Other "best available information" may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in § 161-11A and B, above. This information shall be used for floodplain regulation purposes only.
- D. State-regulated flood hazard areas. For state-regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the "Flood Hazard Area Control Act Design Flood Elevation," as defined in Article VII, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the special flood hazard areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

List of State Studied Waters		
Name of Studied Water	File Name	Map Number
Nishuane Bk	SUPPIV02	N-1
Nishuane Bk	SUPPIV03	N-2
Second Rv	SUPPIV06	S-5
Second Rv	SUPPIV07	S-6
Third Rv	SUPPIV18	T-9
Third Rv	SUPPIV19	T-10
Peckman Rv	SUPPV009	2 of 2
Third Rv	SUPPIV21p	08P

§ 161-12. Establishing the local design flood elevation (LDFE).

The local design flood elevation (LDFE) is established in the flood hazard areas determined in § 161-11, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum statewide elevation requirements for lowest floors in A, Coastal A, and V Zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this chapter. At a minimum, the local design flood elevation shall be as follows:

- A. For a delineated watercourse, the elevation associated with the best available flood hazard data area determined in § 161-11, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or

- B. For any undelineated watercourse (where mapping or studies described in § 161-11A and B above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the local design flood elevation:
- (1) A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - (2) A determination of the flood hazard area design flood elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to § 161-35 and 161-36.
- C. AO Zones. For Zone AO areas on the municipality's FIRM (or on preliminary flood elevation guidance from FEMA), the local design flood elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the local design flood elevation is three feet above the highest adjacent grade.
- D. Class IV critical facilities. For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the local design flood elevation must be the higher of the 0.2% annual chance (500-year) flood elevation or the flood hazard area design flood elevation with an additional two feet of freeboard in accordance with ASCE 24.
- E. Class III critical facilities. For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the local design flood elevation must be the higher of the 0.2% annual chance (500-year) flood elevation or the flood hazard area design flood elevation with an additional one foot of freeboard in accordance with ASCE 24.

ARTICLE III

Duties and Powers of the Floodplain Administrator**§ 161-13. Floodplain Administrator designation.**

The Township Engineer is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

§ 161-14. General.

The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Article VII of these regulations.

§ 161-15. Coordination.

The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

§ 161-16. Duties.

The duties of the Floodplain Administrator shall include, but are not limited to:

- A. Review all permit applications to determine whether proposed development is located in flood hazard areas established in Article II of these regulations.
- B. Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- C. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- D. Determine whether additional flood hazard data shall be obtained or developed.
- E. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- F. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to § 161-26 of these regulations.
- G. Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- H. Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood-resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Article VII of these regulations.

- I. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available.
- J. Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- K. Inspect development in accordance with Article VI of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- L. Prepare comments and recommendations for consideration when applicants seek variances in accordance with Article VII of these regulations.
- M. Cite violations in accordance with Article VIII of these regulations.
- N. Notify the Federal Emergency Management Agency when the corporate boundaries of the Township of Montclair have been modified.
- O. Permit ordinary maintenance and minor work in the regulated areas discussed in § 161-11.

§ 161-17. Use of changed technical data.

The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a conditional letter of map revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the state pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

§ 161-18. Other permits.

It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or state agencies having jurisdiction over such development, including Section 404 of the Clean Water Act.⁸⁴ In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

§ 161-19. Determination of local design flood elevations.

- A. If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:
 - (1) Obtain, review, and reasonably utilize data available from a federal, state, or other source; or
 - (2) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional

84. Editor's Note: See 33 U.S.C. § 1344.

engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

- B. It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed best available flood hazard data area and the local design flood elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in §§ 161-11 and 161-12 respectively. This information shall be provided to the Construction Official and documented according to § 161-27.

§ 161-20. Requirement to submit new technical data.

Base flood elevations may increase or decrease resulting from natural changes (e.g., erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g., dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

§ 161-21. Activities in riverine flood hazard areas.

In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

§ 161-22. Floodway encroachment.

Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

§ 161-22.1. Floodway revisions.

A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a conditional letter of map revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

§ 161-23. Watercourse alteration.

Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

§ 161-23.1. Engineering analysis.

The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

§ 161-24. Alterations in coastal areas.

The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) Rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

§ 161-25. Development in riparian zones.

All development in riparian zones as described in N.J.A.C. 7:13 is prohibited by this chapter unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other floodplain development provisions of this chapter. The width of the riparian zone can range between 50 feet and 300 feet and is determined by the attributes of the water body and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine state permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

§ 161-26. Substantial improvement and substantial damage determinations.

When buildings and structures are damaged due to any cause, including, but not limited to, man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- A. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- B. Determine and include the costs of all ordinary maintenance and minor work, as discussed in § 161-5, performed in the floodplain regulated by this chapter in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- C. Compare the cost to perform the improvement, the cost to repair the damaged building to its predamaged condition, or the combined costs of improvements and repairs, where applicable, to the

market value of the building or structure.

- D. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
- E. Notify the applicant, in writing, when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood-resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

§ 161-27. Department records.

In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built elevation certificates; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurance that the flood-carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood-resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the local design flood elevation in the floodplain development permit.

§ 161-28. Liability.

The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

ARTICLE IV Permits

§ 161-29. Permits required.

Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

§ 161-30. Application for permit.

The applicant shall file an application, in writing, on a form furnished by the Floodplain Administrator. Such application shall:

- A. Identify and describe the development to be covered by the permit.
- B. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan and construction documents as specified in Article V of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- E. State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- F. Be signed by the applicant or the applicant's authorized agent.

§ 161-31. Validity of permit.

The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

§ 161-32. Expiration.

A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

§ 161-33. Suspension or revocation.

The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations

wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

ARTICLE V
Site Plans and Construction Documents

§ 161-34. Information for development in flood hazard areas.

- A. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:
- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
 - (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with § 161-35.
 - (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with § 161-35A(3) of these regulations.
 - (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A Zones, new buildings shall be located landward of the reach of mean high tide.
 - (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
 - (7) Extent of any proposed alteration of sand dunes.
 - (8) Existing and proposed alignment of any proposed alteration of a watercourse.
 - (9) Floodproofing certifications, V Zone and breakaway wall certifications, operations and maintenance plans, warning and evacuation plans and other documentation required pursuant to FEMA publications.
- B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

§ 161-35. Information in flood hazard areas without base flood elevations (approximate Zone A).

- A. Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:
- (1) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with

Appendix 1 of the FHACA to determine the required flood elevation.

- (2) Obtain, review, and reasonably utilize data available from a federal, state or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
 - (3) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.
- B. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a letter of map change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

§ 161-36. Analyses and certifications by a licensed professional engineer.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- A. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in § 161-37 of these regulations and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
- B. For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in § 161-37 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- D. For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
- E. For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones

without base flood elevations (approximate A Zones).

§ 161-37. Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

ARTICLE VI

Inspections**§ 161-38. General.**

Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

§ 161-39. Inspections of development.

The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

§ 161-40. Buildings and structures.

The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- A. Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in § 161-74 shall be submitted to the Construction Official on an elevation certificate.
- B. Lowest horizontal structural member. In V Zones and Coastal A Zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in § 161-74 shall be submitted to the Construction Official on an elevation certificate.
- C. Installation of attendant utilities (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in § 161-74.
- D. Final inspection. Prior to the final inspection, certification of the elevation required in § 161-74 shall be submitted to the Construction Official on an elevation certificate.

§ 161-41. Manufactured homes.

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an elevation certificate to the Floodplain Administrator prior to the final inspection.

ARTICLE VII

Variances**§ 161-42. General.**

The Montclair Planning Board shall hear and decide requests for variances. The Montclair Planning Board shall base its determination on technical justifications submitted by applicants, the considerations for issuance in § 161-46, the conditions of issuance set forth in § 161-47, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Montclair Planning Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

§ 161-43. Historic structures.

A variance to the substantial improvement requirements of this chapter is authorized, provided that the repair or rehabilitation of an historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as an historic structure, the structure meets the definition of the historic structure as described by this chapter, and the variance is the minimum necessary to preserve the historic character and design of the structure.

§ 161-44. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

§ 161-45. Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in § 161-36(A). of these regulations.

§ 161-46. Considerations.

In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- D. The importance of the services provided by the proposed development to the community.
- E. The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.

- F. The compatibility of the proposed development with existing and anticipated development.
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- J. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

§ 161-47. Conditions for issuance.

Variances shall only be issued upon:

- A. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Notification to the applicant, in writing, over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

ARTICLE VIII
Violations

§ 161-48. Violations.

Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

§ 161-49. Authority.

The Floodplain Administrator is authorized to serve notices of violation or stop-work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

§ 161-50. Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop-work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

§ 161-51. Review period to correct violations.

A thirty-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

ARTICLE IX

Definitions**§ 161-52. General.**

The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

§ 161-53. Definitions.

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

100-YEAR FLOOD ELEVATION — Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as "the base flood elevation."

500-YEAR FLOOD ELEVATION — Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES — Areas of special flood hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the base flood elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) Zones A, AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this chapter, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

ACCESSORY STRUCTURE — Accessory structures are also referred to as "appurtenant structures." An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

AGRICULTURAL STRUCTURE — A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the base flood elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

AH ZONES — Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one foot and three feet. Base flood elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

ALTERATION OF A WATERCOURSE — A dam, impoundment, channel relocation, change in channel

alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

AO ZONES — Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one foot and three feet.

AREA OF SHALLOW FLOODING — A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — See "special flood hazard area."

ASCE 24 — The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

ASCE 7 — The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA which includes, but is not limited to, methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads, including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

BASE FLOOD ELEVATION (BFE) — The water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the "100-year flood elevation."

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA — The most recent available preliminary flood risk guidance FEMA has provided. The best available flood hazard data may be depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA — The areal mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The best available flood hazard data may be depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION — The most recent available preliminary flood elevation guidance FEMA has provided. The best available flood hazard data may be depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM.

BREAKAWAY WALLS — Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the local design flood elevation, it will collapse under specific lateral loads such that 1) it allows the free passage of floodwaters, and 2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be

submitted at permit application.

BUILDING — Per the FHACA, "building" means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION — A conditional letter of map revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the letter of map change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL — A conditional letter of map revision - fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the letter of map change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING — Per the FHACA, "critical building" means that:

- A. It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- B. It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day-care center, assisted-living facility, or nursing home.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING — A combination of measures that results in a nonresidential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING — A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE — An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or letter of map revision based on fill

(LOMR-F).

ENCROACHMENT — The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS — Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include, but are not limited to, technical bulletins, desk references, and American Society of Civil Engineers Standards documents, including ASCE 24.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION — Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the state, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A Zone to a V Zone or Coastal A Zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 to 7:13-3.6 and is typically higher than FEMA's base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) — The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOOD or FLOODING —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in Subsection A(2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) of this definition.

FLOODPLAIN MANAGEMENT REGULATIONS — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPLAIN OR FLOOD PRONE AREA — Any land area susceptible to being inundated by water from any source. See "flood or flooding."

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE — Certification by a licensed design professional that the design and methods of construction for floodproofing a nonresidential structure are in accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the local design flood elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD — A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE — A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING — Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multiresidence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a nonhabitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP — As related to Article VII of this chapter, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Planning Board of the Township of Montclair requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LAWFULLY EXISTING — Per the FHACA, means an existing fill, structure and/or use, which meets all federal, state, and local laws, and which is not in violation of the FHACA because it was established:

- A. Prior to January 31, 1980; or
- B. On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered "lawfully existing" for the purposes of the NFIP. This definition is included in this chapter to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT — A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the letter of map change (LOMC) process. A LOMA establishes a property's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE — The letter of map change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an area of special flood hazard on an Flood Insurance Rate Map (FIRM). Conditional letters of map revision, conditional letters of map revision — Fill, letters of map revision, letters of map revision-fill, and letters of map amendment are requested through the letter of map change (LOMC) process.

LETTER OF MAP REVISION — A letter of map revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of map revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION - FILL — A letter of map revision based on fill (LOMR-F) is FEMA's

modification of the special flood hazard area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the letter of map change (LOMC) process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM), it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL — Licensed design professional shall refer to either a New Jersey licensed professional engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey licensed architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER — A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION — The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on, but not limited to, advisory flood hazard area maps, work maps, or preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's local design flood elevation (LDFE) be lower than a permit-specified flood hazard area design flood elevation or a valid NJDEP flood hazard area verification letter plus the freeboard as required in ASCE 24 and the effective FEMA base flood elevation.

LOWEST ADJACENT GRADE — The lowest point of ground, patio, or sidewalk slab immediately next to a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR — In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and Coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other applicable nonelevation design requirements of these regulations.

MANUFACTURED HOME — A structure that is transportable in one or more sections, eight feet or more in width and greater than 400 square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE — The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods 1) actual cash value (replacement cost depreciated for age and quality of construction), 2) tax assessment value adjusted to approximate market value by a factor provided by the property appraiser, or 3) established by a qualified independent appraiser.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NONRESIDENTIAL — Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK — This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018, New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include, but are not limited to, replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air-conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of state or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE — A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

RESIDENTIAL — Pursuant to the ASCE 24:

- A. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- B. Structures, including, but not limited to, one- and two-family dwellings, townhouses, condominiums, multifamily dwellings, apartments, congregate residences, boardinghouses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- C. Institutional facilities where people are cared for or live on a twenty-four-hour basis in a supervised environment, including, but not limited to, board and care facilities, assisted-living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL — The storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than six months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA — The greater of the following: 1) Land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; 2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; 3) riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the "area of special flood hazard."

START OF CONSTRUCTION — The start of construction is as follows:

- A. For other than new construction or substantial improvements, under the Coastal Barrier Resources

Act (CBRA),⁸⁵ this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- B. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and base flood elevations (BFEs) increase or zones change, the start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and base flood elevations (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally aboveground.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

85. Editor's Note: See 16 U.S.C.A. § 3501 et seq.

- B. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

THIRTY-DAY PERIOD — The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this chapter has been issued.

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES — Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE — A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION — A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION — The height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE — A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING — Floodproofing method that relies on the use of flood-damage-resistant materials and construction techniques in areas of a structure that are below the local design flood elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and nonresidential structures and to accessory and agricultural structures that have been issued variances by the community.

ARTICLE X
Subdivisions and Other Developments

§ 161-54. General.

Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.

§ 161-55. Subdivision requirements.

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- A. The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- B. Residential building lots shall be provided with adequate buildable area outside the floodway.
- C. The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

ARTICLE XI
Site Improvement

§ 161-56. Encroachment in floodways.

Development, land-disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with § 161-36(A) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If § 161-36(A) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with § 161-74 of this chapter and the floodway requirements of N.J.A.C. 7:13.

§ 161-56.1. Prohibited in floodways.

The following are prohibited activities:

- A. The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
- B. Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

§ 161-57. Sewer facilities.

All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

§ 161-58. Water facilities.

All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

§ 161-59. Storm drainage.

Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

§ 161-60. Streets and sidewalks.

Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

§ 161-61. Limitations on placement of fill.

Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

§ 161-62. Hazardous materials.

The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

ARTICLE XII
Manufactured Homes

§ 161-63. General.

All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

§ 161-64. Elevation.

All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in § 161-74.

§ 161-65. Foundations.

All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on foundations as specified by the manufacturer only if the manufacturer's installation instructions specify that the home has been designed for flood-resistant considerations and provides the conditions of applicability for velocities, depths, or wave action as required by 24 CFR Part 3285-302. The Floodplain Administrator is authorized to determine whether the design meets or exceeds the performance necessary based upon the proposed site location conditions as a precondition of issuing a flood damage prevention permit. If the Floodplain Administrator determines that the home's performance standards will not withstand the flood loads in the proposed location, the applicant must propose a design certified by a New Jersey licensed design professional and in accordance with 24 CFR 3285.301(c) and (d) which conforms with ASCE 24, the accepted standard of engineering practice for flood resistant design and construction.

§ 161-66. Anchoring.

All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

§ 161-67. Enclosures.

Fully enclosed areas below elevated manufactured homes shall comply with the requirements of § 161-74.

§ 161-68. Protection of mechanical equipment and outside appliances.

Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in § 161-74 of these regulations.

Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by § 161-74, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation, provided they conform to the provisions of NFPA 70 (National Electric Code).

ARTICLE XIII
Recreational Vehicles

§ 161-69. Placement prohibited.

The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

§ 161-70. Temporary placement.

Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

§ 161-71. Permanent placement.

Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of § 161-74 for habitable buildings and § 161-65.

ARTICLE XIV

Tanks

§ 161-72. Tanks.

Underground and aboveground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

ARTICLE XV
Other Development and Building Work

§ 161-73. General requirements for other development and building work.

All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- A. Be located and constructed to minimize flood damage;
- B. Meet the limitations of § 161-36(A) of this chapter when located in a regulated floodway;
- C. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the local design flood elevation determined according to § 161-12;
- D. Be constructed of flood-damage-resistant materials as described in ASCE 24 Chapter 5;
- E. Have mechanical, plumbing, and electrical systems above the local design flood elevation determined according to § 161-12 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the local design flood elevation unless the attendant utilities and equipment are:
 - (1) Specifically allowed below the local design flood elevation; and
 - (2) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- F. Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- G. Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

§ 161-74. Requirements for habitable buildings and structures.

Construction and Elevation in A Zones not including Coastal A Zones.

- A. No portion of a building is located within a V Zone.
- B. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
- C. All new construction and substantial improvement of any habitable building (as defined in Article IX) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the local design flood elevation as determined in § 161-12, be in conformance with ASCE Chapter 7, and be confirmed by an elevation certificate.
- D. All new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary

facilities, elevated to or above the local design flood elevation as determined in § 161-12, be in conformance with ASCE Chapter 7, and be confirmed by an elevation certificate; or

- (2) Together with the attendant utility and sanitary facilities, be designed so that below the local design flood elevation, the structure:
 - (a) Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - (b) Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a floodproofing certificate, and is confirmed by an elevation certificate.

E. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:

- (1) For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
- (2) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is nonresidential and the requirements of § 161-74D(2) are met;
- (3) Be constructed to meet the requirements of ASCE 24 Chapter 2;
- (4) Have openings documented on an elevation certificate; and
- (5) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act⁸⁶ permit or prior to the start of any site disturbance (including preconstruction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 - (a) The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - (b) The depth of flooding that the enclosure would experience to the flood hazard area design flood elevation;
 - (c) The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

§ 161-75. Garages and accessory storage structures.

Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

86. Editor's Note: See N.J.S.A. 58:16A-50 et seq.

§ 161-76. Fences.

Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire-mesh fences, shall meet the requirements of § 161-36(A) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain-link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than six feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Article VII of this chapter.

§ 161-77. Retaining walls, sidewalks, and driveways.

Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of § 161-36(A) of these regulations and N.J.A.C. 7:13.

§ 161-78. Swimming pools.

Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Aboveground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of § 161-36(A) of these regulations. Aboveground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

§ 161-79. Roads and watercourse crossings.

- A. For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the flood hazard area design elevation in accordance with N.J.A.C. 7:13.
- B. Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of § 161-36(A) of these regulations.

ARTICLE XVI

Temporary Structures and Temporary Storage**§ 161-80. Temporary structures.**

Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of floodwaters.

§ 161-81. Temporary storage.

Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

§ 161-82. Floodway encroachment.

Temporary structures and temporary storage in floodways shall meet the requirements of § 161-36(A) of these regulations.

ARTICLE XVII
Utility and Miscellaneous Group U

§ 161-83. Utility and miscellaneous Group U.

In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 square feet), fences more than six feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.

§ 161-84. Flood loads.

Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the local design flood elevation as determined in § 161-12.

§ 161-85. Elevation.

Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the local design flood elevation as determined in § 161-12 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

§ 161-86. Enclosures below base flood elevation.

Fully enclosed areas below the design flood elevation shall be constructed in accordance with § 161-74 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

§ 161-87. Flood-damage-resistant materials.

Flood-damage-resistant materials shall be used below the local design flood elevation determined in § 161-12.

§ 161-88. Protection of mechanical, plumbing, and electrical systems.

Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the local design flood elevation determined in § 161-12.

Exception: Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the local design flood elevation, provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the local design

flood elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the local design flood elevation, provided they conform to the provisions of NFPA 70 (National Electric Code).

Chapter 163**FUND-RAISING, POLITICAL**

[HISTORY: Adopted by the Board of Commissioners (now Council) of the Town (now Township) of Montclair 3-28-2000 by Ord. No. 00-08. Amendments noted where applicable.]

§ 163-1. Short title.

An ordinance banning the use of government buildings and government equipment for political fund-raising.

§ 163-2. Purpose.

Whereas, political contributions have a profound impact on government decision making; and whereas, our laws in New Jersey do not presently ban solicitation or acceptance of contribution by public office holders and employees while on public property or by use of public facilities; and whereas, a conflict may arise between the business of political fund-raising and the business of government in town hall and other government-owned premises, and this may cause a distraction from the people's business; and whereas, the most appropriate method to prevent this conflict and to ensure the integrity of government decisions is the prohibition of political fund-raising on or by use of public property; therefore, it is accordingly found and determined that the paramount public interest in a clean and accountable government requires the prohibition of political fund-raising on public property or by use of public facilities.

§ 163-3. Definitions.

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

CANDIDATE — Any individual seeking election to a public office of the federal government, state, county, municipality school district or political organization at an election.

CONTRIBUTION — Includes all loans and transfers of money or other thing of value to or by any candidate, elected official or political organization and all pledges or other commitments or assumptions of liability to make any such transfer. Contributions shall be deemed to have been made upon the date when such commitment is made or liability assumed.

MUNICIPAL OFFICIAL, EMPLOYEE and APPOINTEE — Any person holding elective municipal office or holding an appointed position in the municipal government, or in any agency, commission, board or office thereof, whether the position is full-time or part-time, compensated or uncompensated; and any employee of municipal government or in any agency, commission, board or office thereof, whether the position is full-time or part-time.

MUNICIPALITY — This municipality and any officer, department, board, commission or agency thereof

POLITICAL ORGANIZATION — Any two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for federal, state, county, municipal or school board office. Political organization includes, but is not limited to, organizations otherwise defined as "political committee," "joint candidates committee" and "legislative leadership committee."

PROPERTY OF THE MUNICIPALITY — Buildings, land, vehicles, phones, fax machines, computers or other office equipment or supplies and other real or personal property owned, leased or controlled by the municipality, except for public roads and open park land.

SOLICIT — To seek by oral or written communication a contribution as same is defined herein.

§ 163-4. General regulations.

- A. Prohibition against soliciting or accepting political contributions on public property. No municipal official, employee or appointee may solicit, commit to pay or receive payment of or a commitment to pay any contribution for any candidate, elected official or political organization while in or on the property of the municipality or utilizing the property of the municipality.
- B. Prohibited forms of fund-raising. Prohibited forms of fund-raising shall include but are not limited to:
 - (1) Soliciting or accepting contributions using municipal telephones, fax machines or computers.
 - (2) Soliciting or accepting contributions using personal telephones while on the property of the municipality.
 - (3) Soliciting or accepting contributions through the use of publicly owned computers or privately owned personal computers while on the property of the municipality.
 - (4) Using municipal letterhead to solicit or accept contributions.
 - (5) Sending correspondence from municipal buildings or by use of municipal services, equipment or postage.
 - (6) Face-to-face soliciting of an individual or an owner or representative of a business entity while on the property of the municipality.
 - (7) Use of automobiles owned or leased by the municipality to accept or solicit contributions.
- C. Reporting requirements. It shall be the responsibility of any employee, appointed or elected official who observes any prohibited forms of fund-raising to report such conduct to the Municipal Ethics Board, if one exists, or in the alternative, to the Municipal Prosecutor and the Municipal Clerk who shall report same to the governing body.
- D. Whistle-blower provision. It shall be unlawful for any employee, elected official or appointee to be dismissed, reprimanded, retaliated against or otherwise intimidated for complying with the reporting requirements mandated by this chapter.

§ 163-5. Violations and penalties. [Amended 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.

GAMES OF CHANCE

Chapter 166

GAMES OF CHANCE

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. 127.

Games of chance in parks — See Ch. 234, Art. I.

ARTICLE I

Games of Chance on Sunday

**[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80- 12 as
Ch. 128 of the 1979 Code]**

§ 166-1. Authorization for Sunday games.

The conduct of games of chance in the Township of Montclair on Sunday is hereby authorized; provided, however, that each such game of chance shall be held, operated and conducted only under and in accordance with a license issued pursuant to N.J.S.A. 5:8-24 et seq.

ARTICLE II

Gambling Devices

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 166 of the 1979 Code]

§ 166-2. Prohibited devices and games.

No person shall set up, keep or maintain or permit to be set up, kept or maintained, in any house or premises occupied by him or her, any faro table, faro bank, roulette or other device or game of chance for the purpose of gaming.

§ 166-3. Right of entry; seizure of property.

It shall be the duty of the police, and they are hereby authorized and empowered, to enter upon any premises wherein instruments or devices employed in gaming as described in § 166-2 shall be used contrary to the provisions of this article. Except in the case of bowling alleys and billiard tables, the police are hereby authorized and empowered to carry away and destroy such instruments or devices employed in said gaming.

§ 166-4. Prohibited acts.

No person shall deal, play or engage in faro, roulette or other device or game of chance, or buy or sell what is commonly known as a "pool" or any interest or share in any such pool, or shall make or take what is commonly known as a "book," upon the running, pacing or trotting of any horse, mare, gelding or other animal or any game, racing or contest. No person shall have in his or her possession any ticket, slip or other writing or printing of an interest or share, or showing or indicating an interest, share, bet or pledge, in any pool, lottery, racing, contest or other game of chance. No person shall keep or attend a place to which persons may resort for engaging in any such acts or for betting upon the event of any horse race or other race or contest or for gambling in any form. No person shall aid, abet, assist or participate in any such pool, lottery, race or other contest or game of chance.

§ 166-5. 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 article 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.

ARTICLE III

Licenses

[Adopted 11-13-2006 by Ord. No. 06-63]

§ 166-6. Raffle and bingo licensing.

The Township Clerk is hereby authorized to approve the granting of raffle and bingo licenses for the Township of Montclair.

MONTCLAIR CODE

Chapter 170

GLUE SALES AND HEAD SHOPS

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. 127.

Nuisances — See Ch. 218.

ARTICLE I

Glue Sales

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 132 of the 1979 Code]

§ 170-1. Definitions.

As used in this article, the phrase "glue containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any glue, cement or other adhesive containing one or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene.

§ 170-2. Inhaling fumes prohibited.

No person shall, for the purpose of causing or inducing in himself or herself or in another person a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of his or her senses or nervous system, intentionally inhale or smell or intentionally assist another person to inhale or smell the fumes or vapors from any glue containing a solvent which has the property of releasing toxic fumes or vapors.

§ 170-3. Buying or selling for unlawful purpose.

No person shall, for the purpose of violating or aiding another person to violate any provision of this article, buy, sell, possess, transfer possession or receive possession of any glue containing a solvent having the property of releasing toxic fumes or vapors.

§ 170-4. Purchases by or sales to minors.

No person under the age of 18 years shall possess or buy any glue containing a solvent having the property of releasing toxic fumes or vapors, and no person shall sell or transfer possession to any person under the age of 18 years any glue containing a solvent having the property of releasing toxic fumes or vapors; provided, however, that nothing contained in this section shall prohibit the sale or transfer of possession to, or the purchase or possession of any such glue by, a person under the age of 18 years where said minor has in his or her possession and exhibits the written consent of his or her parent or guardian; provided, further, that nothing contained herein shall be deemed to prohibit the sale of a model kit containing as a part thereof a container of any such glue; and provided further that nothing contained herein shall be deemed to prohibit the transfer or possession of any such glue to any minor by the parent or guardian of said minor.

§ 170-5. 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 article 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.

ARTICLE II

Head Shops

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 132 of the 1979 Code]

§ 170-6. Sales or display of certain materials prohibited.

No person shall advertise, display, sell or offer to sell any type of syringe, needle, eye dropper, spoon, pipe, testing kit, rolling paper or other paraphernalia or appliances designed for or ordinarily used in smoking, testing, weighing, measuring, injecting, cooking or sniffing marijuana, cocaine, opium, hashish or other controlled dangerous substances as defined by N.J.S.A. 24:21-1 et seq.

§ 170-7. Buildings used for manufacture or distribution of paraphernalia considered a nuisance.

It shall constitute a common nuisance to maintain any building, conveyance or premises whatsoever which is resorted to by persons for the manufacture, distribution, dispensing, administration or use of any type of syringe, needle, eye dropper, spoon, pipe, testing kit, rolling paper or other paraphernalia or appliances designed for or ordinarily used in smoking, testing, weighing, measuring, injecting, cooking or sniffing marijuana, cocaine, opium, hashish or other controlled dangerous substances as defined by N.J.S.A. 24:21-1 et seq.

§ 170-8. 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 article 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.

Chapter 174**GRAFFITI**

[HISTORY: Adopted by the Council of the Township of Montclair 4-26-1983 by Ord. No. 83-16 (Art. IX of Ch. 166 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. 127.

Disfiguring park property — See Ch. 234, Art. I.

Nuisances — See Ch. 218.

§ 174-1. Definitions.

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

GRAFFITI — Any letters, numbers, word or words, writing, inscription, symbol, drawing, carving, etching or any other marking of any nature whatsoever which defaces, obliterates, covers, alters, damages or destroys the real or personal property of another. This chapter shall not be construed to prohibit easily removable chalk markings on the public sidewalks and streets used in connection with traditional children's games.

§ 174-2. Prohibited acts.

No person shall write, print or place with ink, paint, chalk or any other substance or substances or otherwise mark, scratch, carve or etch graffiti on the real or personal property of another, whether said real or personal property be publicly or privately owned, unless the owner of said property shall have, prior to such writing, painting or placing of graffiti, specifically consented to the same.

§ 174-3. Removal; lien for costs. [Added 7-20-1994 by Ord. No. 94-33]

- A. Requirement to remove graffiti. The occupant, lessee, sublessee, agent and/or landlord of any commercial or residential premises located within the Township of Montclair which has any form of graffiti on any building, structure or accessory structure or building shall be required to either restore the defaced surface by removing the graffiti or repaint the defaced surface using the same color paint as existed previously on a defaced surface within 10 days after written notice to the occupant, lessee, sublessee, agent or landlord by the Chief of Police or Township Manager (or designee) to remove the same.
- B. Remedy of Township of Montclair. If said graffiti condition is not cured or corrected within 10 days after written notice by the Township of Montclair, then the Township of Montclair shall have the right to issue a summons and to enter the premises to remove the graffiti and/or repaint the premises as set forth above, and the cost of the removal of the graffiti and/or repainting shall be at the sole cost and expense of the occupant, lessee, sublessee, agent and/or landlord of said building or structure or accessory building or structure. The actual cost of the removal of the graffiti and/or repainting, plus the cost of the inspection of said graffiti and/or repainting and other costs incidental to such removal, shall be certified by the Township Manager to the Township Council and thereafter as certified become a lien upon the real property upon which the graffiti was found to be and shall be added to

and become a part of the taxes next to be assessed and levied on such real property, and the same shall be collected and enforced in the same manner as taxes.

§ 174-4. Violations and penalties. [Amended 7-20-1994 by Ord. No. 94-33; 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.

MONTCLAIR CODE

Chapter 178

HANDBILLS AND POSTERS

[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 Art. V of Ch. 166 of the 1979 Code. Amendments noted where applicable.]

§ 178-1. Attachment to trees or poles prohibited.

No person shall place upon or attach to any tree or telegraph, telephone, electric light, traffic or street sign pole or post upon any street within any handbill, advertisement or written or printed or partly written or printed notice of any kind, except such notices as by law are required to be posted.

§ 178-2. Fastening advertisements to sidewalks.

No person shall fasten, by pasting or otherwise, any handbills, advertisements, circulars or other written or printed matter to any sidewalk within .

§ 178-3. Distribution of handbills.

No person shall place, throw, cast or distribute any paper of any kind, any handbill, circular, card or other advertising matter, including all samples of every description whatsoever, in or upon any street or public place, or in or upon any motor vehicle on a public street or place, or in or upon any front yard or courtyard of private premises, or in or upon any stoop of such private premises, or in or upon any vestibule or hall of any building, or in any letter box thereon or therein maintained; provided, however, that nothing contained in this section shall be deemed to prohibit the delivery of any such matter by the United States postal authorities and the delivery of newspapers, magazines and periodicals from regularly established news dealers. This section is not intended to prevent the lawful distribution of anything other than commercial and business advertising matter.

§ 178-4. 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.

HAZARDOUS SUBSTANCES

Chapter 182

HAZARDOUS SUBSTANCES

[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 27.

Fire prevention — See Ch. 153.

ARTICLE I

Registration**[Adopted 1-26-1993 by Ord. No. 93-3 (Art. I of Ch. 120 of the 1979 Code)]****§ 182-1. Purpose.**

The purpose of this article is to provide for the registration and identification of all premises upon which are located hazardous substances and chemicals that have the potential of causing serious harm to the welfare and safety of the residents of the Township of Montclair. A computerized information emergency response management system is required to organize and immediately access the data relative to hazardous substances and chemicals in order to better provide for the public safety and the welfare of township residents.

§ 182-2. Registration required.

Any person, firm, partnership or corporation required to file a SARA Title III, § 311-312, Right-to-Know information form, as required by Title III of the Emergency Planning and Community Right-to-Know Act of 1986, shall be made part of the computerized information emergency response management system and shall be responsible for complying with the provisions of this article.

§ 182-3. Fees.

Any person, firm, partnership or corporation to whom the provisions of this article apply as set forth above shall pay to the Township an annual registration fee of \$30 on or before March 1 of each year. In addition, a fee of \$5 per page of SARA Title II, § 311-312 documentation, shall be paid to the Township of Montclair. Any person, firm, partnership or corporation who or which files after March 1 of each year will be required to pay an annual registration fee of \$60 and \$10 per page of SARA Title III, § 311-312 documentation.

§ 182-4. Enforcement.

It shall be the duty of the Fire Department of the Township of Montclair to enforce the provisions of this article, and the Chief of the Department or his or her designee as enforcement officer shall be responsible for ensuring compliance with the same.

§ 182-5. Violations and penalties. [Amended 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

ARTICLE II

Reimbursement of Costs of Removal**[Adopted 8-24-1993 by Ord. No. 93-30 (Art. II of Ch. 120 of the 1979 Code)]****§ 182-6. Definitions.**

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

COLLECTION AGENCY — The Township of Montclair.

DISCHARGE — Any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into any waters which flow within the jurisdiction of the Township.

EXPENDABLE ITEMS — Any items used to extinguish or prevent any hazardous material fire or stop or contain any leak, release or spill involving any hazardous material which cannot be reused or cannot be replenished without cost after that particular incident. These expendable items include but are not limited to fire-fighting foam, chemical extinguishing agents and absorbent materials, sand, recovery drums and any protective equipment and clothing to include but not restricted to chemical protective suits, chemical protective gloves, goggles and any other item owned or controlled by the Township of Montclair or its employees, agents, officers and/or officials.

HAZARDOUS MATERIAL — Any material, solid, liquid or gas, listed as such under the National Fire Protection Association Guide of Hazardous Materials, the Department of Transportation Guidebook, the list of hazardous substances adopted by the Federal Environmental Protection Agency (EPA) pursuant to Section 311 of the Federal Water Pollution Control Act Amendment of 1972, as amended by the Clean Water Act of 1977 (33 U.S.C. § 1251 et seq.), and the list of toxic pollutants designated by Congress or the EPA pursuant to Section 307 of the Federal Water Pollution Control Act, and any hospital or medical waste, including but not limited to syringes, bandages and discarded pharmaceutical products.

VEHICLE — Any motorized equipment, registered or unregistered, including but not limited to a passenger car, motorcycle, truck, tractor trailer, construction equipment, farm machinery, watercraft, aircraft and trains.

VESSEL — Any container, drum, box, cylinder or tank used to hold or contain or carry or store any hazardous materials, whether or not said container was manufactured for the containment of a hazardous material.

§ 182-7. Purpose.

- A. This article provides for the reimbursement for or the replacement of any and all equipment utilized by the Township of Montclair for costs expended, without regard to ownership, for the purpose of mitigating, controlling or containing any incident in which a hazardous material is involved in a fire, leak, release or spill, or where the potential thereof exists, or for the prevention of the same.
- B. This article also provides for the reimbursement for the expenses incurred by the Township for wages, regular or overtime, paid to its employees, agents or servants as a result of an incident involving a hazardous material, fire, leak, release or spill of a hazardous material and for costs of medical and hospital treatment for injuries incurred by agents, servants and employees of the Township of Montclair.
- C. This article mandates reimbursement to the Township of Montclair and for any expendable items used by the Township or any of its employees, agents, servants, officers or officials in extinguishing

any hazardous material fire or stopping or containing or controlling or mitigating any spill, release or leak of any hazardous material.

§ 182-8. Discharge prohibited; removal by Township; liability.

- A. The discharge of hazardous substances is prohibited. This section shall not apply to the discharge of hazardous substances pursuant to and in compliance with the conditions of a federal or state permit.
- B. Any person who may be subject to liability for a discharge or becomes aware of a discharge which occurred prior to or after the effective date of this article shall immediately notify the Township of Montclair Emergency Management Coordinator.
- C. Whenever any hazardous substance is discharged, the Township may, at its discretion, act to remove or arrange for the removal of such discharge.
- D. Any person who has discharged a hazardous substance or is in any way responsible for any hazardous substance which has been or shall be removed by the Township of Montclair shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs and shall be liable for the wages, regular and overtime, paid and the costs of medical and hospital treatment for injuries incurred by the agents, servants and employees of the Township of Montclair.

§ 182-9. Reimbursement to Township; responsibility.

Reimbursement to the Township of Montclair for expendable items used shall be made by the owner or operator of the property or vehicle responsible for the hazardous material fire, leak or spill of hazardous material; the owner or person responsible for the vessel containing the hazardous material involved in such fire, leak or spill on public or private property, whether stationary or in transit and whether accidental or through negligence; the owner or person responsible for any property from which any leak or spill of hazardous material emanates, whether accidental or through negligence; and the person responsible for the hazardous material fire, leak or spill of hazardous material on public or private property, whether accidental or through negligence.

§ 182-10. Reimbursement for services.

Any person causing any hazardous material fire, leak, spill or release involving a hazardous material must provide reimbursement for services rendered by any recovery company, towing company or any other technical assistance called for by the Township to handle such incident. In the event of a vehicle having been responsible for an incident, such vehicle shall be impounded until such time as it has been deemed safe to proceed by the incident commander in conjunction and cooperation with the Township of Montclair Hazardous Materials Unit and until such time as arrangements have been made to reimburse the Township and the towing company for their expenditures under the terms of this article.

§ 182-11. Time limit for reimbursement; collection by agency.

The person or entity responsible for any fire, leak or spill of hazardous materials shall reimburse the Township the full price of expendable items and costs hereto used to extinguish such fire or to stop or contain such leak or to control such spill within 45 days after receipt of a bill therefor. The collecting agency shall utilize its best efforts to collect costs hereunder and shall reimburse its agents or the local units of the amount collected. In the event that the collecting agency is not able to collect said costs or only a portion thereof, the collecting agency shall not be responsible to its agents or the local units for the full amount of the same.

§ 182-12. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19]

The person or entity responsible for any fire, leak or spill of hazardous material who fails to reimburse the Township within the time required shall be subject to a fine of not less than \$50 nor more than \$1,000 per day for each day that the bill from the Township remains unpaid or to imprisonment for a period of not more than six months, or both. Each day of the violation shall constitute a separate and distinct offense.

HEALTH STANDARDS

Chapter 186

HEALTH STANDARDS

[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 Part 2 of Ch. 137 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Health — See Ch. 3, § 3-11.

Nuisances — See Ch. 218.

Department of Health and Human Services — See Ch. 3, Art. XII.

Property maintenance — See Ch. 247.

Housing standards — See Ch. 190, Art. I.

Swimming pools — See Ch. 305.

Multifamily buildings — See Ch. 213.

ARTICLE I
General and Administrative Provisions

§ 186-1. Definitions. [Amended 5-23-2000 by Ord. No. 00-19]

- A. As used in this chapter, the following terms shall have the meanings indicated:

DEPARTMENT or DEPARTMENT OF HEALTH — The Department of Health of the Township of Montclair, in the County of Essex.

HEALTH OFFICER — The Health Officer of the Township of Montclair.

PERSON — Includes corporations, companies, associations, societies, firms, partnerships, joint-stock companies and political subdivisions as well as individuals.

TOWNSHIP — The Township of Montclair in the County of Essex.

- B. Number; gender. Whenever, in describing or referring to any person, party, matter or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and to apply to several persons or parties as well as to one person and to females as well as males, and to bodies corporate as well as individuals and to several matters and things as well as one matter or thing.

§ 186-2. Right of entry.

The Department of Health and its members, agents and employees shall have the right to enter into and upon any premises, public or private building or vehicle for the purpose of enforcing the provisions of this Health Code and the health laws and regulations of the State of New Jersey or to determine whether such provisions or rules and regulations are being complied with or obeyed. No person shall oppose such entry or hinder or interfere with the Board of Health or any of its members, agents or employees in the performance of their duties.

§ 186-3. Permits and licenses.

- A. Issuance. All applications for licenses or permits required by this chapter or any supplements thereto or amendments thereof, except when otherwise specifically provided, shall be made to the office of the Department of Health and shall be in such form and detail as the Department shall prescribe. Upon filing of an application and the payment of the fee prescribed herein, the Health Officer is authorized to issue a license or permit to the applicant, provided that he or she has complied with all the requirements and the relevant rules and regulations provided in this chapter.
- B. Revocation. In the event of the violation of any of the provisions of this chapter or of the relevant rules and regulations provided for herein, a license or permit issued pursuant to this chapter may be revoked after a hearing before the Department of Health, upon charges filed with the Department and a time for the hearing fixed, of which the holder of the license or permit shall have at least one week's notice by mail, addressed to the address of the holder of the license or permit as the same appears upon the aforesaid application. The penalty of revocation provided in this subsection shall be in addition to any other penalties provided for violation of this chapter or any other ordinance of the Department. No person shall operate any business or conduct any activity for which a license or permit is required by this chapter or the amendments thereof or supplements thereto after revocation thereof or during the period of suspension thereof, as hereinafter provided.
- C. Suspension. In the event of the violation by the holder of a license or permit of any of the provisions

of this chapter or of the relevant rules and regulations provided therein, where the effect of such violation is such as to constitute a hazard or injury to public health, the Health Officer is authorized to suspend the license or permit pending the hearing before the Department of Health provided in Subsection B of this section. In the event of such suspension, the Health Officer shall, within 24 hours after notice of suspension, give to the holder of such license or permit an opportunity for hearing before him or her and to present such evidence as may be desired concerning such violation. After hearing, the Health Officer may continue or discharge such suspension, but if continued, an early hearing shall be provided by the Department.

§ 186-4. Display of permits and licenses.

All permits and licenses shall be prominently displayed upon the premises for which they are issued, and upon each and every vehicle or device used in the business for which a license or permit is required, there shall be displayed at all times in plain sight, on the left side or rear of said vehicle or device, such current license or permit sign as may be provided by the Department.

§ 186-5. Examination of license or permit by officer.

Every holder of a license or permit shall exhibit same upon demand to any member of the Department, the Health Officer or any other authorized representative of the Department or any peace officer of this municipality.

§ 186-6. 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 article 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.

ARTICLE II
Wastewater Disposal
[Amended 5-23-2000 by Ord. No. 00-19]

§ 186-7. Maintenance of apparatus.

It shall be the duty of every property to maintain yards, drains, cisterns, downspouts, pipes, vaults, catch basins, water-flushed toilets and all other apparatus employed in the disposal of wastewater and materials in such condition that there shall be no leakage into adjoining property to the damage or inconvenience of the owner or tenant of the same.⁸⁷

87. Editor's Note: Former Article VI, Communicable Diseases of Persons; Article VII, Communicable Diseases of Animals; Article VIII, Vital Statistics; and Article IX, Burial, Disinterment and Removal Permits, which immediately followed this section, were deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE III
Food and Drink

§ 186-8. Food handling. [Amended 12-18-1984 by Ord. No. 84-48]

- A. Regulation by State Sanitary Code. The control of all retail food establishments in Montclair shall be conducted as specified in Chapter XII of the New Jersey Sanitary Code, adopted July 6, 1972, as amended and supplemented.⁸⁸
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AGRICULTURAL MARKET — Any retail food establishment which is primarily engaged in the sale of raw agricultural products, may cut the raw agricultural products for sale on the premises, and may include as a minor portion of its operation the sale of factory-sealed or prepackaged food products that do not normally require refrigeration and the sale of other grocery products.**[Added 5-23-2024 by Ord. No. O-24-14]**

BAKERY — Any retail food establishment engaged in the sale or preparation of bakery products such as bread, cakes and pies; may include as a minor portion of the operation the sale of other grocery products.**[Added 5-23-2024 by Ord. No. O-24-14]**

BAR/LIQUOR STORE — Any retail establishment engaged in the sale of alcoholic beverages; may include as a minor portion of the operation the sale of factory-sealed or prepackaged food products.**[Added 5-23-2024 by Ord. No. O-24-14]**

BREWERY — Any food establishment in which beer is produced commercially.**[Added 5-23-2024 by Ord. No. O-24-14]**

BUTCHER — Any retail food establishment primarily engaged in the sale or preparation of meat products; may include as a minor portion of the operation the sale of other grocery products.**[Added 5-23-2024 by Ord. No. O-24-14]**

CATERER/COMMISSARY/KITCHEN — Any food establishment engaged in the preparation of food which is then transported to be served or offered for sale elsewhere.**[Added 5-23-2024 by Ord. No. O-24-14]**

CHILDCARE FACILITY KITCHEN — Any food establishment located within any facility which is maintained for the care, development, or supervision of six or more children who attend for less than 24 hours a day. Class A includes facilities that bring in food prepared from other licensed facilities. Class B includes facilities that prepare food on-site.**[Added 5-23-2024 by Ord. No. O-24-14]**

COFFEE/TEA SHOP/CAFE — Any food establishment serving coffee, tea and other beverages along with baked goods or light meals.**[Added 5-23-2024 by Ord. No. O-24-14]**

CONFECTIONERY — Any retail establishment primarily engaged in the sale of non-factory-sealed or prepackaged candy products by weight or piece.**[Added 5-23-2024 by Ord. No. O-24-14]**

CONGREGATE CARE FACILITY/ASSISTED LIVING — Any food establishment engaged in the preparation of food for individuals who require a coordinated array of supportive personal and health services, which is to be served therein.**[Added 5-23-2024 by Ord. No. O-24-14]**

CONVENIENCE STORE — Any retail establishment primarily engaged in the sale of newspapers, magazines and notions; may include as a minor portion of the operation the sale of factory-sealed or prepackaged food products or prepared foods such as coffee, tea and rolls.**[Added 5-23-2024 by**

88. Editor's Note: See N.J.A.C. 8:24-1.1 et seq.

Ord. No. O-24-14]

FARM PRODUCT — Any agricultural, horticultural, forest product, or other product of the soil or water including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, ornamental or vegetable plants, nursery products, flowers, firewood and Christmas trees. **[Added 5-23-2024 by Ord. No. O-24-14]**

FARMERS MARKET VENDOR — Any farmer, grower or business that participates in a farmer's market within the Township, selling farm products and/or other prepared food items directly to the consumer. **[Added 5-23-2024 by Ord. No. O-24-14]**

FARMERS' MARKET — A temporary market established in a public space where farmers/growers/ or other food vendors sell a variety of farm products, as defined in this article, directly to the consumer. **[Added 5-23-2024 by Ord. No. O-24-14]**

FISH MARKET — Any retail food establishment primarily engaged in the sale or preparation of fish or fish products; may include as a minor portion of the operation the sale of other grocery products. **[Added 5-23-2024 by Ord. No. O-24-14]**

FOOD — Includes any substance used or intended to be used as food or drink for human consumption.

FOOD ESTABLISHMENT/ESTABLISHMENT — Any fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial feeding establishment, private, public or nonprofit organization or institution serving food, catering kitchen, commissary, box-lunch establishment, retail bakery, meat market, delicatessen, grocery store, public food market or similar place in which food or drink is prepared or processed for human consumption be it for on- or off-premises consumption.

FOOD HANDLER'S CERTIFICATE — A certificate by the Township of Montclair Health Department certifying successful completion of a course of general instruction in bacteria characteristics and growth, spread of food-borne diseases, methods of preventing food poisoning, proper food-handling techniques, equipment and establishment sanitation, dishwashing and sanitization and insect and rodent control, which said course is given by or has received the approval of the Montclair Health Department.

FOOD HANDLING SPECIAL PERMIT — A special permit issued by the Montclair Health Department pursuant to Subsection H of this section.

FROZEN DAIRY AND FLAVORED ICE PRODUCTS — Any retail food establishment primarily engaged in the sale or preparation of frozen dairy or flavored ice products. **[Added 5-23-2024 by Ord. No. O-24-14]**

GROCERY — Any retail food establishment engaged in the sale of a limited variety of bakery and dairy products as well as prepackaged and processed food products. **[Added 5-23-2024 by Ord. No. O-24-14]**

GROCERY/DELICATESSEN — Any retail food establishment primarily engaged in the sale of prepared foods and/or hot or cold sandwiches and a limited variety of bakery, meat, fish, poultry, dairy or liquor products, as well as prepackaged and processed food products. **[Added 5-23-2024 by Ord. No. O-24-14]**

HEALTH OFFICER — Any reference to the Township's Health Officer shall refer to the Health Officer or his or her designee. **[Added 5-23-2024 by Ord. No. O-24-14]**

INSTITUTIONAL KITCHEN — Any food establishment engaged in the preparation of food which is to be served therein or minimally transported for service within the confines of the structure that houses the kitchen.**[Added 5-23-2024 by Ord. No. O-24-14]**

MINI-MARKET/MINIMART — Any retail food establishment engaged in the sale of a limited variety of bakery, meat, fish, poultry, raw agricultural, dairy or liquor products as well as prepackaged and processed food products.**[Added 5-23-2024 by Ord. No. O-24-14]**

MISCELLANEOUS LICENSE — This shall consist of any activity delegated to the Division of Health for licensing or regulation. The license fee shall be determined by the Division of Health.**[Added 5-23-2024 by Ord. No. O-24-14]**

MOBILE FOOD VENDORS — A mobile food vendor is anyone who sells food or beverages from a vehicle such as a truck, van, or pushcart, whether such food or beverages are prepared on-site or prepared elsewhere and transported to the site of the sale. Mobile food vendor class A shall include vendors who sell pre-packaged frozen dairy and/or shaved ice products. Mobile food vendor class B includes vendors who sell all other food products not included in class A.**[Added 5-23-2024 by Ord. No. O-24-14]**

NOT-FOR-PROFIT CORPORATION — A federal tax exempt, nonprofit corporation incorporated in New Jersey. A New Jersey corporation which can demonstrate proof of pending federal tax-exempt status shall also be deemed a not-for-profit corporation for the purposes of this article.**[Added 5-23-2024 by Ord. No. O-24-14]**

PHARMACY/DRUGSTORE — Any retail establishment primarily engaged in the sale of drugs, cosmetics and devices pursuant to N.J.S.A. Title 24; may include as a minor portion of the operation the sale of food products.**[Added 5-23-2024 by Ord. No. O-24-14]**

RELIGIOUS INSTITUTION KITCHEN — Any food establishment located within a church, synagogue, mosque, temple, or any building which is used primarily for religious worship and related religious activities.**[Added 5-23-2024 by Ord. No. O-24-14]**

SCHOOL CAFETERIA — Any food establishment located within a public or private facility providing education to individuals from kindergarten through high school.**[Added 5-23-2024 by Ord. No. O-24-14]**

SUPERMARKET — Any retail food establishment engaged in the sale of an extensive variety of bakery, meat, fish, poultry, raw agricultural, dairy or liquor products as well as prepackaged and processed food products.**[Added 5-23-2024 by Ord. No. O-24-14]**

SUPERVISOR — Any person charged with the responsibility of overseeing the operations, including the supervision of employees engaged in the preparing or processing of food or drink intended for human consumption, be it for on- or off-premises consumption.

TEMPORARY RETAIL FOOD ESTABLISHMENT — Any retail food establishment which operates at a fixed location for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory function, including church suppers, picnics or other organizational meetings; includes mobile retail food establishments and mobile agricultural markets.**[Added 5-23-2024 by Ord. No. O-24-14]**

UNIVERSITY/COLLEGE KITCHEN — Any food establishment located within an educational institution or establishment providing higher education or specialized professional or vocational training.**[Added 5-23-2024 by Ord. No. O-24-14]**

- C. No new establishment or establishment which has changed ownership shall operate for more than 60 days without the supervisor(s) employed in that establishment applying for a food handler's

certificate.

- D. No new establishment or establishment which has changed ownership shall operate for more than six months without the supervisor(s) employed in that establishment being holder(s) of valid food handlers certificate(s).
- E. Six months from the effective date of this section and thereafter, except as provided in Subsections C, D and H of this section, no establishment shall be in operation or open for business in the preparing or processing of food or drink intended for human consumption without having a supervisor who has a valid food handler's certificate on the premises at all such times the establishment is in operation or open for business.
- F. A food handler's certificate shall be issued to any person successfully completing a course of instruction given or approved by the Montclair Health Department. The cost of such course shall be borne by the applicant and will cost \$30 per person. A food handler's certificate shall be valid for a period of five years. Any person possessing a food handler's certificate on the effective date of this amendment which is more than five years beyond its original issuance date shall be required to apply for a renewal certification within 60 days from the effective date of this amendment. **[Amended 1-22-1991 by Ord. No. 91-2; 5-23-2024 by Ord. No. O-24-14]**
- G. No person to whom a food handler's certificate is issued shall give, loan, transfer or permit the same to be used by any other person, for any purpose whatsoever.
- H. Agricultural markets, covered-dish suppers or similar type of church or nonprofit-type institution meal services shall be exempted from the requirements of Subsections C, D and E of this section if, because of the infrequency, incontinuity, unique or limited nature of food preparation or processing, the Montclair Health Department determines that the public health will not be jeopardized by the absence of a certified food handler from the premises. Organizations holding exempt functions as defined in this section shall notify the Montclair Health Department about planned exempt functions at least one week prior to the event. The Montclair Health Department will conduct voluntary food-handling courses for those organizations requesting training or where a determination is made that such training is necessary.
- I. Any person, firm, corporation or other organization violating any provision of this section shall, upon conviction thereof, be subject to a penalty of not more than \$1,000. **[Amended 5-23-2000 by Ord. No. 00-19]**

§ 186-9. Licenses. [Amended 12-14-1993 by Ord. No. 93-43; 6-13-2006 by Ord. No. 06-28]

- A. Issuance. No person shall conduct, maintain or operate a retail food establishment in the Township of Montclair who does not possess a license from the Department of Health. Such license shall not be transferable and shall continue in force and effect until the 31st day of December next ensuing the date of granting thereof.
- B. Fees.
 - (1) License fees shall accompany the application for the license and shall be as follows: **[Amended 5-23-2024 by Ord. No. O-24-14]**
 - (a) Temporary food-handling permits:
 - [1] One day to 10 days: \$150.

(b) Retail food establishments:

- [1] Category 1: \$200. Includes liquor stores, convenience stores, pharmacy/drugstores, mobile food vendor class A, childcare facility class A.
- [2] Category 2: \$400. Includes bakery, butcher, fish market, agricultural market, frozen dairy, grocery/delicatessen/restaurant/luncheonette/cafe (not more than 16 persons), confectionary, coffee/tea house, school cafeteria, brewery, religious institution kitchen, childcare facility class B.
- [3] Category 3: \$600. Includes supermarket, restaurant/cafeteria (more than 16 persons), caterer/commissary kitchen, congregate care kitchen, university/college cafeteria/kitchen.

(c) Farmer's market vendors:

- [1] \$300 per year.

(d) Late fees: \$100 for any renewal application received by the Health Department later than November 30 of the year preceding the year for which the license is issued.

(e) The classification of each establishment shall be determined by the Montclair Township Health Officer. Establishments meeting the criteria for more than one classification shall be charged the greater fee.

- (2) All licenses shall expire on the 31st day of December of the calendar year in which they are issued. Licenses shall be displayed under glass in a conspicuous place in the establishment.
- (3) Fees for reinspection of any food establishment, as the same is defined in this article, which are necessitated by a conditional or unsatisfactory rating given at the time of inspection of said establishment licensed or to be licensed by the Township of Montclair, shall be in the amount of the license fee applicable to the facility of the premises.
- (4) Any retail food establishment requiring an inspection for licensure or as a result of an emergency during off-duty hours, such as weekends, evenings or holidays, shall reimburse the Township for reasonable costs of the inspection, including the salary or wages of the inspector called as a result of the emergency.

§ 186-10. Fee for license to sell ice. [Amended 5-23-2024 by Ord. No. O-24-14]

The fee for a license to sell or distribute ice in the Township of Montclair shall be \$100 for each vehicle or place used in the distribution thereof; and license plates supplied by the Department of Health shall be attached and displayed on each vehicle.⁸⁹

89. Editor's Note: Former Art. XI, Milk, and Art. XII, Meat and Horsemeat, of Ch. 137, which immediately followed this section, were deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE IV

Housing**§ 186-11. Heating.**

- A. Every person who shall have contracted or undertaken, or shall be bound to heat or to furnish heat for any building, or portion thereof, occupied as a home or a place of residence of one or more persons, or as a business establishment where one or more persons are occupied, shall heat, or furnish such heat for, every occupied room in such building or portion thereof so that a minimum temperature of 68° F. shall be maintained therein between the hours of 6:00 a.m. and 11:00 p.m., and a minimum temperature of 60° F. shall be maintained therein between the hours of 11:00 p.m. and 6:00 a.m. in any building, or portion thereof, occupied as a home or place of residence and during the usual working hours established and maintained in a building, or portion thereof, occupied as a business establishment throughout the year. **[Amended 6-10-1980 by Ord. No. 80-37]**
- B. The provisions of this section shall not apply to buildings or portions thereof used and occupied for trades, businesses or occupations where high or low temperatures are essential or unavoidable.
- C. For the purpose of this section, wherever a building is heated by means of a furnace boiler or other apparatus under the control of the owner, agent or lessee of such building, such owner, agent or lessee, in the absence of a contract or agreement to the contrary, shall be deemed to have contracted, undertaken or bound himself or herself to furnish heat in accordance with the provisions of this article.
- D. The owner or person in charge of any rented or leased dwelling or building where the heating system or systems are a permanent part of the property shall maintain such heating system or systems therein in a safe and proper working condition to supply heat to said dwelling or building.
- E. On and after October 1, 1956, the owner, lessor or other person in control of any building shall provide a heating system which is a permanent affixed part of said building and shall maintain such heating system or systems therein in a safe and proper working condition to supply heat to said building.⁹⁰

§ 186-12. (Reserved)**§ 186-13. (Reserved)****§ 186-14. Water supply.**

- A. No person, owner or owner-occupant, shall rent, let, lease or allow to be occupied by that person, owner or owner-occupant or others for domestic purposes, any building which shall not have a plentiful supply of potable running water available on each floor and/or in each apartment. **[Amended 6-24-1997 by Ord. No. 97-29]**
- B. No person shall rent, let, lease or allow to be occupied for business purposes any building which shall not have a plentiful supply of potable running water available on each floor.
- C. All toilets shall be confined within the main structure of the building.⁹¹

90. Editor's Note: Former §§ 137-62, Sanitation, and 137-633, Dust from rugs, brooms and mops, which immediately followed this section, were deleted 5-23-2000 by Ord. No. 00-19.

91. Editor's Note: Former §§ 137-65, Living conditions, which immediately followed this section, was deleted 5-23-2000 by Ord. No.

§ 186-15. (Reserved)**§ 186-16. Waste disposal. [Amended 5-23-2000 by Ord. No. 00-19]**

- A. Hereafter no septic tank shall be installed in the Township of Montclair except in locations where it is impossible to connect with a sanitary sewer line.
- B. No person shall install a septic tank in the Township of Montclair without first ascertaining the proper size as recommended by the Department of Community Services of the Township of Montclair and then making application and obtaining a permit from the Department of Health, and all installations shall be inspected and approved by the Department of Health. **[Amended 6-15-2004 by Ord. No. 04-34]**
- C. Any owner of property along the line of which there exists a sanitary sewer shall connect his or her house or other buildings thereon therewith.⁹²

00-19.

92. Editor's Note: Former Article XV, Barbershops and Beauty Shops; Article XVI, Boarding Homes for Children; Article XVII, Sale of Water; Article XVIII, Streetcars and Buses; Article XIX, Rummage Sales; and Article XX, Distribution of Medicines, which immediately followed this section, were deleted 5-23-2000 by Ord. No. 00-19.

ARTICLE V
Private Swimming Pools⁹³

§ 186-17. Definitions.

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

PRIVATE SWIMMING POOL or POOL — An outdoor or indoor swimming pool or swimming tank, whether permanently installed, portable, collapsible or otherwise, having an inside structural depth in excess of 24 inches or a surface in excess of 120 square feet or a capacity in excess of 1,400 gallons, constructed or maintained upon any premises by any person for use by himself, herself, his or her family or guests.

§ 186-18. Filtering or clarifying devices required.

All swimming pools shall be properly equipped with filtering or clarifying devices so that the water of such pools shall be kept at all times in a sanitary condition for bathing purposes. The Department of Health may from time to time adopt chemical and bacterial standards for pools.

§ 186-19. Chlorination.

All swimming pools shall be properly equipped with devices for dispensing chlorine-bearing compounds which will provide an available or excess chlorine content of not less than 0.4 part per million nor more than 1.0 part per million at all times. Chlorine gas shall not be used as a disinfecting agent.

§ 186-20. Bacterial quality of water.

- A. The bacterial quality of the water when the pool is in use shall be such that not more than 15% of the samples covering any considerable period of time shall contain more than 200 bacteria per milliliter or shall show positive test for organisms of the coliform group in any of five ten-milliliter portions of water.
- B. All chemical and bacterial analyses of swimming pool water shall be made in accordance with the procedures recommended in the Standard Methods for the Examination of Water, Sewage and Industrial Waste of the American Public Health Association.

§ 186-21. Inspections; collection of samples.

The Health Officer or his or her designated representative shall have the authority to inspect private swimming pools and to collect samples of water for analysis.

93. Editor's Note: See also Ch. 305, Swimming Pools.

ARTICLE VI

Body Art Establishments**[Added 6-13-2006 by Ord. No. 06-23]****§ 186-22. Definitions.**

BODY ART — The practice of physical body adornment in permitted establishments by operators utilizing, but not limited to, the following techniques: body piercing, tattooing; and permanent cosmetics.

BODY ART ESTABLISHMENT — Any place or premises, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.

§ 186-23. License to operate; fee.

- A. It shall be unlawful for any person to operate a body art establishment without first obtaining a license from the Health Department to engage in such business in accordance with the provisions of N.J.A.C. 8:27-1 et seq. All licenses shall expire on the 31st day of December annually.
- B. An application for a license shall be accompanied by a fee in the amount of \$200. Any renewal application received after November 30 shall be subject to a late fee of \$50. Any change in ownership shall require a new application and license with payment of the required application fee.
- C. In the event that renovations and/or alterations are proposed to a body art establishment, plans must be submitted to the Health Department for its review and approval.

ARTICLE VII

Fee Schedule

[Added 10-9-2007 by Ord. No. 07-39; amended 1-6-2009 by Ord. No. 08-54; 12-10-2013 by Ord. No. O-13-69]

§ 186-24. Fee schedule for Health Department vaccines and programs.

The following fees shall be paid for participation in the Health Department programs listed below and conducted by the Department of Health and Human Services. Fees for the following programs and services shall be fixed at the Township's cost subject to the following minimum and maximum fee schedule:

Vaccine Fee Schedule

Vaccine	Minimum Fee	Maximum Fee
Influenza	\$20	\$30
Hepatitis A (adolescent)	\$20	\$30
Hepatitis A (adult)	\$35	\$55
Hepatitis B (adolescent)	\$25	\$35
Hepatitis B (adult)	\$35	\$50
Gardasil	\$140	\$190
Pneumonia	\$70	\$90
Polio	\$30	\$45
Measles, Mumps, and Rubella	\$55	\$75
Meningococcal Meningitis	\$115	\$150
Zosetvax, Shingles	\$175	\$225
Tetanus and Diphtheria	\$25	\$40
Tetanus, Diphtheria and Pertussis	\$40	\$60
Twinrix (Hep A/Hep B)	\$55	\$75
Mantoux, PPD (Tuberculin Skin Testing-Step 1)	\$20	\$30
[Added 9-20-2016 by Ord. No. O-16-037]		
Mantoux, PPD (Tuberculin Skin Testing-Step 2)	\$30	\$40
[Added 9-20-2016 by Ord. No. O-16-037]		

Pneumonia: Medicare participant

Maximum allowable rate determined by
Medicare Part B

Influenza: Medicare participant

Maximum allowable rate determined by
Medicare Part B

Program Fee Schedule

Program	Minimum Fee	Maximum Fee
Women's Health Clinic (women under 60 years of age)	\$20	\$40
Foodhandlers course	\$10	\$30

MONTCLAIR CODE

Chapter 190

HOUSING

[HISTORY: Adopted by the Board of Commissioners (Arts. I and II), Township Council (Arts. III and IV), now Mayor and Township Council (all subsequent articles), as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Standards

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 98 of the 1979 Code]

§ 190-1. Legislative determination.

The Township Council hereby determines that in the township there are or may be in the future dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic or insanitary as to constitute a menace to the health and safety of the people of the township.

§ 190-2. Purpose.

The purpose of this article is to establish minimum standards governing the conditions and maintenance of dwellings; establish minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary and fit for human habitation; fix certain responsibilities and duties of owners and occupants of dwellings; authorize the inspection of dwellings; and fix penalties for violations.

§ 190-3. Definitions.

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

ADMINISTRATIVE AUTHORITY — The department, branch or agency of this municipality which is authorized by the adopting ordinance to administer the provisions of this article.

BUILDING — Any building or structure or part thereof used or intended by its design to be used for human habitation, use or occupancy, and includes any accessory buildings and appurtenance belonging thereto usually enjoyed therewith.

DWELLING — A building or structure or part thereof containing one or more dwelling units or lodging units.

DWELLING UNIT — Any room or group of rooms or any part thereof located within a building and forming a single habitable unit with facilities which are used or designed to be used for living, sleeping, cooking and eating.

GARBAGE — The animal and vegetable and other organic waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM — A room or enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

INFESTATION — The presence, within or around a building, of any insects, rodents or other pests.

LODGING HOUSE — Any building or that part of any building containing one or more lodging units, each of which is rented by one or more persons not related to the owner.

LODGING UNIT — A rented room or group of rooms containing no cooking facilities, used for living purposes by a separate family or group of persons living together or by a person living alone, within a building.

OCCUPANT — Any person or persons in actual possession of and living in the building or dwelling unit, including the owner.

OWNER — Any person properly authorized to exercise powers of or for an owner of property for purposes

of its purchase, sale, use, occupancy or maintenance.

PERSON — Shall be given the same meaning as defined in N.J.S.A. 1:1-2.

PLUMBING FIXTURES — All installed receptacles or devices which are supplied with water or which receive or discharge liquid waste or sewage into the drainage system with which they are directly or indirectly connected.

PUBLIC OFFICER — The officer or officers who are authorized by the adopting ordinance to exercise powers prescribed by this article.

RUBBISH — All combustible and noncombustible waste material, except garbage.

UTILITIES — Electric, gas, heating, water and sewerage services and equipment therefor.

§ 190-4. Inspections.

- A. The Zoning and Housing Officer and the Housing Inspectors are hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units and premises located within the township in order that they may perform their duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the Zoning and Housing Officer and the Housing Inspectors may enter, examine and survey dwelling units and premises at all reasonable times.
- B. The owner or occupant of every dwelling or dwelling unit or the person in charge thereof shall give such officers free access to such dwelling, dwelling unit and its premises at all reasonable times for the purpose of such inspection, examination and survey.

§ 190-5. Owner's right of access.

Every occupant of a dwelling unit shall give the owner thereof or his or her agent or employee access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this article.

§ 190-6. Enforcement officers.

The Zoning and Housing Officer and the Housing Inspectors are hereby designated and appointed to enforce the provisions of this article.

§ 190-7. Notice of violation.

Whenever the Zoning and Housing Officer or a Housing Inspector determines that there exists a violation of any of the provisions of this article, he or she shall give notice of such violation to the owner, landlord, tenant or occupant responsible therefor. Such notice shall:

- A. Be in writing.
- B. Contain a statement of the violation or violations existing in the dwelling or dwelling unit.
- C. Specify a reasonable time, not to exceed 30 days, in which the violation or violations shall be abated, corrected or eliminated.
- D. Be served upon the owner or his or her agent, the landlord, the tenant or the occupant personally or by registered or certified mail addressed to him or her at his or her last known address, or by posting

a copy thereof in a conspicuous place in or about the dwelling or dwelling unit affected by such notice.

§ 190-8. Orders for corrective action.

Whenever the Zoning and Housing Officer finds in any dwelling a condition which presents an immediate and serious threat to the health or safety of the occupants of such dwelling or to the health or safety of the general public, he or she shall immediately issue and serve an order in the manner specified in § 190-7D, reciting the existence of such condition and requiring that corrective action specified by him or her be taken within such short time as he or she deems necessary to meet the emergency.

§ 190-9. Extension of time for correction.

The Zoning and Housing Officer may grant a reasonable extension of time specified for the elimination of any violation of this article on good cause being shown to him or her for such extension.

§ 190-10. Review of order for corrective action. [Amended 5-23-2000 by Ord. No. 00-19]

Any person ordered or directed by the Zoning and Housing Officer or a Housing Inspector to alter, correct or eliminate a violation of this article shall be entitled to a hearing upon and a review of such order or direction by the Director of the Department of Planning and Community Development or by such member of the Township Council as to whom the said Director may, refer the matter for hearing if application for a hearing is made in writing within 10 days of the service of such order or direction. At the conclusion of such hearing, the Director shall affirm the order or direction of the Zoning and Housing Officer or Housing Inspectors or set it aside if a violation is found not to exist, or he or she may enlarge the time specified by the order for the correction of the violations determined to exist.

§ 190-11. Water supply.

- A. Every dwelling unit and lodging house shall be provided with a safe supply of potable water meeting the standards as set forth in Potable Water Standards as published by the New Jersey State Department of Health.
- B. The source of such water supply shall be approved by the New Jersey State Department of Health and/or the Board of Health.
- C. The minimum rate of flow of hot or cold water issuing from a faucet or fixture shall be not less than one gallon per minute.

§ 190-12. Required facilities.

- A. Every dwelling unit shall contain a kitchen sink of nonabsorbent impervious material, at least one flush-type water closet, a lavatory and a bathtub or shower, available only for the use of the occupants of that dwelling unit.
- B. Every lodging house shall be provided with a minimum of one flush-type water closet, lavatory and a bathtub or shower for every eight persons or part thereof.
- C. Every water closet, lavatory and bathtub or shower for each dwelling unit or lodging house shall be accessible from within the building without passing through any part of any other dwelling unit or lodging unit and, in a lodging house, shall be located no farther than one floor above or below the lodging units served. Such water closet, lavatory and bathtub or shower shall be contained in a room

or rooms which are separated from all other rooms by walls, doors or partitions that afford privacy.

- D. Every plumbing fixture shall be connected to water and sewer systems approved by the Board of Health and shall be maintained in good working condition.
- E. Every kitchen sink, lavatory and bathtub or shower required by this article shall be connected to both hot- and cold-water lines.
- F. Every dwelling shall have water heating facilities which are installed and maintained in good and safe working condition, connected with the hot-water lines required under the provisions of Subsection E of this section and capable of delivering water at a minimum temperature of not less than 120° F.
- G. Every cellar or basement floor shall be of concrete not less than four inches thick. No dirt floors shall be allowed.⁹⁴

§ 190-13. Lighting.

- A. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window or skylight area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window of any habitable room and are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be included in calculating the required minimum total window area.
- B. Every dwelling shall be provided with electric service.
- C. Every habitable room shall contain at least two separate wall-type electric convenience outlets or one such convenience outlet and one ceiling or wall-type electric light fixture. Every such outlet and fixture shall be maintained in good and safe condition and shall be connected to the source of electric power. No temporary wiring shall be used except extension cords which run directly from portable electrical fixtures to convenience outlets and which do not lie under rugs or other floor coverings nor extend through doorways, transoms or other openings through structural elements.
- D. Every portion of each staircase, hall, cellar, basement, landing, furnace room, utility room and all similar nonhabitable space located in a dwelling shall have either natural or artificial light available at all times, with an illumination of at least two lumens per square foot (two footcandles) in the darkest portions.
- E. Every portion of any interior or exterior passageway or staircase common to two or more families in a dwelling shall be illuminated naturally or artificially at all times, with an illumination of at least two lumens per square foot (two footcandles) in the darkest portion of the normally traveled stairs and passageways. In dwellings comprising two dwelling units, such illumination shall not be required at all times if separate switches, convenient and readily accessible to each dwelling unit, are provided for the control of such artificial light by the occupants thereof.
- F. Every bathroom and water closet compartment shall have either natural or artificial light available at all times, with an illumination of at least three lumens per square foot (three footcandles). Such light shall be measured 36 inches from the floor at the center of the room. Artificial lighting shall be controlled by a wall switch so located as to avoid danger of electrical hazards.

94. Editor's Note: Former § 98-28, Garbage and rubbish storage, which immediately followed this section, was deleted 5-23-2000 by Ord. No. 00-19.

§ 190-14. Ventilation.

- A. Means of ventilation shall be provided for every habitable room. Such ventilation may be provided either by an easily operable window or skylight having an openable area of at least 45% of the minimum window area or minimum skylight area as required in § 190-13A or by other means acceptable to the administrative authority which will provide at least two air changes per hour.
- B. Means of ventilation shall be provided for every bathroom or water closet compartment. Such ventilation may be provided either by an easily operable window or skylight having an openable area of at least 45% of the minimum window area or minimum skylight area as required in § 190-13A or by other means acceptable to the administrative authority which will provide at least five air changes per hour.

§ 190-15. Heating equipment.

- A. Every dwelling shall have heating facilities which are properly installed, maintained in good and safe working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments located therein to a temperature of at least 68° F. when the outside temperature is 0° F. The temperature shall be read at a height of three feet above floor level at the center of the room.
- B. Every space heater, except electrical, shall be properly vented to a chimney or duct leading to the outdoors. Unvented portable space heaters burning solid, liquid or gaseous fuels shall be prohibited.

§ 190-16. Egress.

- A. Every dwelling, dwelling unit or lodging unit shall have safe and unobstructed means of egress. Such means of egress shall not be through any other dwelling unit or part thereof and shall lead to a safe and open space at ground level accessible to a street.
- B. A room used for sleeping purposes under the provisions of § 190-18E shall be provided with a safe and unobstructed means of egress leading directly to an outside area accessible to a street.

§ 190-17. Maintenance.

- A. Every foundation, floor, wall, ceiling, door, window, roof or other part of a building shall be kept in good repair and capable of the use intended by its design, and any exterior part or parts thereof subject to corrosion or deterioration shall be kept well painted.
- B. Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. Every stairway having three or more steps shall be properly banistered and safely balustraded.
- C. Every porch, balcony, roof and/or similar place higher than 30 inches above the ground, used for egress or for use by occupants, shall be provided with adequate railings or parapets. Such protective railings or parapets shall be properly balustraded and be not less than three feet in height.
- D. Every roof, wall, window, exterior door and hatchway shall be free from holes or leaks that would permit the entrance of water within a dwelling or be a cause of dampness.
- E. Every foundation, floor and wall of a dwelling shall be free from chronic dampness.

- F. Every dwelling shall be free from rodents, vermin and insects. Rodent or vermin extermination and rodentproofing and verminproofing may be required by the Board of Health. Rodent and vermin extermination shall be carried out in accordance with § 190-19K. Every openable window, exterior door, skylight and other opening to the outdoors shall be supplied with properly fitting screens in good repair from May 1 until October 1 of each year. Such screens shall have a mesh of not less than No. 16.
- G. Every building, dwelling, dwelling unit and all other areas of the premises shall be clean and free from garbage or rubbish and hazards to safety. Lawns, hedges and bushes shall be kept trimmed and shall not be permitted to become overgrown and unsightly. Fences shall be kept in good repair.
- H. The public officer may order the owner to clean, repair, paint, whitewash or paper such walls or ceilings when a wall or ceiling within a dwelling has deteriorated so as to provide a harborage for rodents or vermin, or when a wall or ceiling has become stained or soiled or the plaster, wallboard or other covering has become loose or badly cracked or missing. Nothing in this subsection shall be so construed as to place upon the nonresident owner responsibilities for cleanliness contained in § 190-19F.
- I. Every water closet compartment floor and bathroom floor shall be so constructed and maintained as to be reasonably impervious to water so as to permit such floor to be kept in a clean condition.
- J. Every vacant building, whether or not it has been permanently vacated, abandoned or boarded and secured, must be maintained in the same manner as required in this article for occupied buildings and all appurtenances thereto, except for the provision of heat and utilities for the duration of the vacancy. It shall be the responsibility of the owners to maintain the security of the building from unauthorized entry and from infestation by pests.

§ 190-18. Use and occupancy of space.

- A. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
- B. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof. Notwithstanding the foregoing, in every lodging unit every room occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet of floor space for each occupant thereof.
- C. At least 1/2 of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- D. No room in a dwelling may be used for sleeping if the floor level of the room is lower than 3 1/2 feet below the average grade of the ground adjacent to and within 15 feet of the exterior walls of the room.
- E. A room located below the level of the ground but with the floor level less than 3 1/2 feet below the average grade of the ground adjacent to and within 15 feet of the exterior walls of the room may be used for sleeping, provided that the walls and floor thereof in contact with the earth have been

dampproofed in accordance with a method approved by the administrative authority, and provided that the windows thereof are at least 15 feet from the nearest building or wall.

§ 190-19. Responsibilities of owners and occupants.

- A. No owner or occupant shall cause any services, facilities, equipment or utilities which are required under this article to be removed from, shut off or discontinued in any occupied dwelling let or occupied by him or her, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies when discontinuance of service is authorized by the public officer. In the event that any service or utility which the owner has agreed to supply is discontinued, the owner shall take immediate steps to cause the restoration of such service or utility.
- B. The owner of a dwelling located in an area found by the public officer to be infested by rats, insects or other vermin shall carry out such rat stoppage, verminproofing or other means of preventing infestations of said dwelling as may be required by the Board of Health.
- C. No owner shall occupy or let to an occupant any vacant dwelling unit or lodging unit unless it is clean and sanitary.
- D. Every owner of a dwelling containing two or more dwelling units or lodging units shall be responsible for maintaining in a clean and sanitary condition the common areas of the dwelling and premises thereof.
- E. It shall be the responsibility of the owner, unless otherwise provided for under lease agreement, to provide for the orderly maintenance of the premises. The storage of objects or materials not covered in Subsections G and H of this section or not otherwise prohibited by municipal ordinances shall be done in an orderly manner so as to not constitute a health, safety or fire hazard.
- F. Every occupant of a dwelling shall keep in a clean and sanitary condition that part of the dwelling which he or she occupies and controls.
- G. Every occupant of a dwelling unit shall dispose of all his or her garbage and any other organic waste which might provide food for rodents, by placing it in the garbage disposal facilities or garbage storage receptacles required by Chapter 292, Solid Waste, Article I, Garbage, Rubbish and Refuse. **[Amended 5-23-2000 by Ord. No. 00-19]**
- H. Every occupant of a dwelling unit shall dispose of all his or her rubbish in a clean, sanitary manner by placing it in the rubbish containers required by Chapter 292, Solid Waste, Article I, Garbage, Rubbish and Refuse. **[Amended 5-23-2000 by Ord. No. 00-19]**
- I. In dwellings containing no more than three dwelling units, it shall be the responsibility of the occupant of each dwelling unit to furnish such receptacles outside the dwelling unit as are needed for the storage of garbage and rubbish until removal from the premises. In lodging houses and in dwellings containing four or more dwelling units, it shall be the responsibility of the owner to furnish such receptacles outside the lodging units or dwelling units as are needed for the storage of garbage and rubbish until removal from the premises.
- J. Every occupant of a dwelling unit in a dwelling containing no more than three dwelling units shall be responsible, unless provided for otherwise under a lease agreement, for the periodic removal of all garbage and rubbish from the premises each week in accordance with such regulations of this municipality for the collection of garbage and rubbish.⁹⁵

- K. Every occupant of a dwelling comprising a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the common parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- L. Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- M. In dwellings containing two or more dwelling units having a common source of heat for domestic hot water, it shall be the responsibility of the owner to make provision for the proper operation of such facilities at all times.
- N. Every owner of a dwelling who permits to be occupied any dwelling unit or lodging unit therein under any agreement, expressed or implied, to supply or furnish heat to the occupants thereof, shall supply heat adequate to maintain therein a minimum inside temperature of 68° F. in all habitable rooms, bathrooms and water closet compartments between the hours of 6:00 a.m. and 11:00 p.m. throughout the year.
- O. In the absence of a contract or agreement to the contrary, an owner shall be obliged to provide heat wherever heating facilities are under the control of the owner or whenever two or more dwelling units or lodging units are heated by a common facility.
- P. The owner shall be responsible for compliance with all provisions of this article not specified as the responsibility of occupants.

§ 190-20. Conflicting provisions.

In any case where a provision of this article is found to be in conflict with any provision of any zoning, building, fire, safety or health ordinance or code of the township,⁹⁶ the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

§ 190-21. 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 article 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.

95. Editor's Note: See Ch. 292, Solid Waste.

96. Editor's Note: See Ch. 121, Construction Codes, Uniform; Ch. 153, Fire Prevention; Ch. 186, Health Standards; and Ch. 347, Zoning.

ARTICLE II

Discrimination**[Adopted 4-15-1980 by Ord. No. 80-12 as Ch. 141 of the 1979 Code]****§ 190-22. Discrimination prohibited.**

No person acting in his or her own behalf or in behalf of any other person shall refuse to enter into any transaction relating to any space used or designed for use of human habitation located in the Township of Montclair involving the sale, lease, assignment, sublease, subassignment or transfer of any right or interest therein, or agreement to enter into any of the foregoing, by reason of the race, religion, color or national origin of any participant or prospective participant in any such transaction.

§ 190-23. Differentiation in terms or conditions of transaction.

No person shall, in the negotiating of any such transaction, differentiate in the terms, conditions, privileges, facilities or services offered to any participant or prospective participant by reason of his or her race, religion, color or national origin.

§ 190-24. Withholding or misrepresentation of information.

No person shall, for the purpose of preventing or deterring any other person from negotiating or entering into any such transaction, intentionally withhold information concerning, misrepresent any information concerning or prevent any inspection of any property at the time being bona fide offered for sale or lease, by reason of the race, religion, color or national origin of any prospective participant.

§ 190-25. Loans and mortgages.

No person shall refuse to make any loan or mortgage or differentiate in the terms or conditions offered or negotiated therefor with respect to any place of human habitation specified in § 190-22 of this article, by reason of the race, religion, color or national origin of any borrower or prospective borrower.

§ 190-26. Acting through agent.

No person shall knowingly acquiesce, instruct or direct any other person to do any of the acts prohibited in §§ 190-22, 190-23, 190-24 and 190-25 above, in his or her behalf or for his or her benefit.

§ 190-27. Delivery of copy of chapter.

The Building Inspector of the Township of Montclair shall deliver a copy of this article and any amendments or supplements thereto to each person to whom a building permit or certificate of occupancy is issued on or after the effective date hereof.

ARTICLE III
(Reserved)⁹⁷

§ 190-28. through § 190-30. (Reserved)

97. Editor's Note: Former Art. III, Affordable Housing, adopted 9-27-2005 by Ord. No. 05-47, was repealed 9-22-2009 by Ord. No. O-053-09. See now Ch. 65, Affordable Housing. See also Ch. 347, Zoning, Art. XXVI, Inclusionary Zoning.

ARTICLE IV

Affirmative Marketing Plan for Affordable Housing
[Adopted 4-5-2006 by Ord. No. 05-12]

§ 190-31. Establishment.

In accordance with the requirements of N.J.A.C. 5:80-26 and N.J.A.C. 5:94-7.3, there is hereby established an Affirmative Marketing Plan for the Township of Montclair, a copy of which is attached hereto and made a part hereof. A copy of the Affirmative Marketing Plan shall be maintained in the Office of the Township Clerk and copies made available to the public upon request and payment of any applicable fees.

ARTICLE V

Lead-Based Paint Inspections
[Adopted 2-13-2024 by Ord. No. O-24-01]**§ 190-32. Legislative determination.**

The Township Council, in accordance with the State of New Jersey, hereby determines that the health risks associated with lead-based paint pose a danger to the general welfare and health of the community. Dwellings that were constructed prior to 1978 are one of the biggest sources of lead exposure for children.

§ 190-33. Purpose.

The purpose of this article is to conform with New Jersey Public Law 2021, Chapter 182, (N.J.S.A. 52:27D-437.16 et seq.), and protect the health of the residents of Montclair by establishing requirements to disclose the presence of any potentially dangerous lead paint found at the time of inspection to any proposed occupants of the premises. Disclosure will allow those occupants to make informed judgments to protect vulnerable occupants against the hazards of lead paint. Lead paint is especially dangerous to children as it can impact the growth and development of a child's brain and central nervous system.

§ 190-34. Applicability.

This article shall apply to all rental one-family, two-family, and multifamily buildings and each individual dwelling unit unless exempted by § 190-38.

§ 190-35. Definitions.

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

COMMON INTEREST COMMUNITY — A real estate development or neighborhood in which the property is burdened by servitudes requiring property owners to contribute to maintenance of commonly held property or to pay dues or assessments to an owners' association that provides services or facilities to the community.

LEAD INSPECTOR — A person certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17-1.1 et seq. This includes the ability to perform dust wipe sampling.

LEAD-BASED PAINT HAZARD — Any condition that causes exposure to lead from lead-contaminated dust or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

LEAD-FREE CERTIFICATION — A certification which confirms that a lead-based paint inspection was performed and that no lead-based paint exists in the dwelling unit or that all lead-based paint hazards have been fully abated.

LEAD-SAFE CERTIFICATION — A certification which confirms that a lead-based paint inspection was performed and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.

TENANT TURNOVER — The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

VISUAL ASSESSMENT — A visual examination for deteriorated paint or visible surface dust, debris, or residue.

VISUAL ASSESSOR — An inspector that is certified to perform a visual assessment.

§ 190-36. Inspections.

- A. A lead inspector for the Township of Montclair shall inspect certain single-family, two-family, and multifamily rental dwellings located in the Township of Montclair for lead-based paint hazards through visual assessment in accordance with N.J.S.A. 52:27D-437.16 et seq.
- B. The owner or occupant of every dwelling or dwelling unit or the person in charge thereof shall give such officers free access to such dwelling, dwelling unit, and its premises at all reasonable times for the purpose of such inspection, examination, and survey.
- C. The property owner or landlord may, in lieu of having the dwelling inspected by the Township's lead inspector, directly hire a private lead inspector who is certified to provide lead paint inspection services by the State of New Jersey Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.16 et seq.

§ 190-37. Identification and abatement of lead-paint based hazards.

- A. If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16d. Upon the remediation of the lead-based paint hazard, the Township's lead inspector or visual assessor, as may be applicable, or the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- B. If no lead-based paint hazards are identified, then the Township's lead inspector or the owner's private lead inspector shall certify the dwelling as lead-safe on a form prescribed by the State of New Jersey Department of Community Affairs, which shall be valid for two years.

§ 190-38. Exemptions.

In accordance with N.J.S.A. 52:27D-437.16c, a dwelling unit in a single-family, two-family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit meets one of the following exemptions:

- A. Dwellings that were constructed during or after 1978.
- B. Single-family and two-family seasonal rental dwellings which are rented for less than six months' duration each year by tenants that do not have consecutive lease renewals. This exemption for seasonal rental dwellings does not extend to seasonal multiple dwellings.
- C. Dwellings that have been certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.6(b) either after an abatement is completed or an evaluation has confirmed that there is no lead-based paint in the dwelling.
- D. Multiple rental dwellings that have been registered with the Department of Community Affairs for at least 10 years and have no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1).

§ 190-39. Inspection and filing fees.

- A. In accordance with N.J.S.A. 52:27D-437.16e, property owners shall:

- (1) Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Township of Montclair at the time of the cyclical inspection.
- (2) Provide evidence of a valid lead-safe certification to new tenants of the property at the time of tenant turnover and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease.
- (3) Maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants if the inspection was conducted during a period of tenancy.

B. The fees for a lead-based paint inspection shall be as follows:

- (1) The fee for visual assessments performed by the Township of Montclair shall be \$80 for a dwelling unit.
- (2) The fee for the filing of a lead-safe certification or lead-free certification shall be \$20.
- (3) In accordance with N.J.S.A. 52:27D-437.16h, an additional fee of \$20 per dwelling unit inspected by the Township's lead inspector or the owner's private lead inspector shall be assessed for the purposes of the Lead Hazard Control Assistance Act⁹⁸, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.
- (4) In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

§ 190-40. Violation and penalties.

All identified lead-based paint hazards will result in a violation issued to the owner or person/persons having control of the property. The violation shall be served in writing and issued by regular and certified mail. The violation shall provide an abatement period of 30 days. If the dwelling owner has not cured the violation within 30 days, the owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated.

98. Editor's Note: See N.J.S.A. 52:27D-437.1 et seq.

MONTCLAIR CODE

Chapter 196

JOGGING

[HISTORY: Adopted by the Council of the Township of Montclair 5-12-1981 by Ord. No. 81-25 (Art. VIII of Ch. 166 of the 1979 Code). Amendments noted where applicable.]

§ 196-1. Definitions.

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

HOURS OF DARKNESS — Any time from 1/2 hour after sunset to 1/2 hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

JOG or JOGGING — The recreational activity of running at any pace for physical exercise or personal enjoyment.

§ 196-2. Construal.

This chapter shall not be construed to permit jogging where prohibited by any law of the State of New Jersey.

§ 196-3. Reflective material.

It shall be unlawful to jog on any public thoroughfare, road or way which is used by motor vehicles during the hours of darkness without wearing reflective material. Such material shall be worn between the waist and shoulders on the front and back of the person jogging and shall give an indication of the jogger's presence through reflected light from the headlamp beams of motor vehicles at a distance of at least 500 feet.

§ 196-4. Single-file formation.

It shall be unlawful for any two or more persons to jog side by side or abreast of each other, and not in single file, on any public thoroughfare, road or way which is used by motor vehicles.

§ 196-5. Violations and penalties.⁹⁹

Any person who shall violate any provision of this chapter shall, upon the first conviction thereof, be punished by a fine not exceeding \$25 and, upon any subsequent conviction, by a fine not exceeding \$1,000.

99. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 200**LANDSCAPERS**

[HISTORY: Adopted by the Council of the Township of Montclair 8-23-1994 by Ord. No. 94-36 (Art. XVI of Ch. 88 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Maintenance of landscaping — See Ch. 247.

Zoning — See Ch. 347.

Site plan review — See Ch. 281.

§ 200-1. Definitions.

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

ANNUAL FEE — The fee charged by and payable to the Municipal Clerk of the Township of Montclair to obtain a license as a landscaper.

ANNUAL LICENSE — License issued by the Municipal Clerk of the Township of Montclair for the purposes stated.

CUSTOMER — Anyone who employs the services of a landscaper to perform the services of maintaining, cutting, cleaning or raking property within the Township of Montclair.

LANDSCAPE CONTRACTOR — The same meaning as landscaper.

LANDSCAPER — A person or persons doing business with residential or commercial customers for the purpose of maintaining, cutting, cleaning, raking or performing similar activities on property within the Township of Montclair.

VEHICLE — Any vehicle required to be registered with the New Jersey Department of Motor Vehicles for use on local roads and highways and used by a landscaper in the performance of his or her work in the Township of Montclair.

§ 200-2. License required. [Amended 9-21-2010 by Ord. No. O-10-052]

- A. Except as set forth in Subsection B below, all landscapers utilizing a truck, van or trailer for landscaping services within the Township of Montclair shall be required to obtain a license in order to offer their services in the Township of Montclair. A license shall be required for each vehicle the landscaper owns or operates within the Township of Montclair. Said license shall be obtained from the Municipal Clerk prior to October 1 of each calendar year. (Said licenses shall terminate September 30.) Proof of licensure will be demonstrated by the issuance and the display of a decal, which will be issued to each licensee and displayed in each vehicle the landscaper owns or operates in the Township of Montclair.
- B. The licensing requirements of this chapter shall not apply to any landscaper who maintains a valid registration certificate issued pursuant to the New Jersey Contractors' Registration Act, N.J.S.A. 56:8-136 et seq.

§ 200-3. Application for license.

- A. All applications for landscaping licenses shall be in writing on all forms furnished by the Township, signed by the applicant or the authorized agent of the applicant and presented to the Municipal Clerk. The application shall state:
- (1) The name of the landscaper.
 - (2) The correct name under which the business is being operated.
 - (3) The residence of the applicant.
 - (4) The names and addresses of residents of the Township for whom landscaping services are being provided.
 - (5) Such other pertinent information as may be necessary for an investigation of the applicant.
- B. All applications for licenses received by the Municipal Clerk shall after appropriate investigation be presented by the Municipal Clerk to the Manager, who shall either grant or refuse the application. Thereafter, if the application is approved, the Municipal Clerk shall issue the license upon payment of the license fee as hereinafter provided. All licenses issued shall expire September 30 of each year.

§ 200-4. Name of company on vehicle; disposal of waste materials.

Every landscaper operating within the Township of Montclair shall be required to comply with the following:

- A. The name of the landscaping company shall be clearly indicated on both sides of any vehicle used in said operation, shall be no less than three inches in height and shall include the name, address and telephone number.
- B. All landscapers shall dispose of all leaves, cutting, clippings and other yard waste materials at the location and in the manner directed by the Director of Community Services of the Township of Montclair. Said designated municipal sites shall be within the Township of Montclair. The landscaper shall only dispose of said materials from properties located within the Township of Montclair. [Amended 6-15-2004 by Ord. No. 04-34; 10-11-2005 by Ord. No. 05-57]

§ 200-5. License fee; terms. [Amended 7-7-2009 by Ord. No. O-032-09]

- A. Upon filing such application, the applicant shall pay to the Municipal Clerk a fee of \$75. Any fraction of the year will be considered a full year for the purposes of this section.
- B. The term of such license shall expire on September 30 of the calendar year in which such license is issued.
- C. Such license shall be automatically renewed by the Municipal Clerk upon payment by the applicant to the Municipal Clerk of an annual renewal fee of \$75. Such renewal shall be for the following year in which such renewal occurs.

§ 200-6. Revocation of license.

If any person licensed in accordance with the provisions of this chapter shall be convicted of violating any statute, ordinance or regulation in the execution of any work for which a permit is required by the applicable ordinance of the Township of Montclair relevant to landscaping, the Township of Montclair shall revoke the license of such person immediately. The Municipal Clerk shall not restore such license

§ 200-6

LANDSCAPERS

during such time as the violation for which such conviction was obtained, exists or remains.

§ 200-7. Relicensing after revocation.

Any person whose license has been revoked under the provisions above may be relicensed by the Municipal Clerk when the grounds upon which such license was revoked are removed or corrected and upon payment of the fee prescribed herein.

§ 200-8. Violations and penalties.

- A. Any person who violates any provision of this chapter, other than disposal requirements, shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. 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. **[Amended 4-10-2007 by Ord. No. 07-17]**

MONTCLAIR CODE

Chapter 202

LAND USE PROCEDURES

[HISTORY: Adopted by the Council of the Township of Montclair 9-2-1997 by Ord. No. 97-38 (Ch. 147 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 121.

Steep slopes — See Ch. 294.

Flood hazard areas — See Ch. 161.

Subdivision of land — See Ch. 301.

Site plan review — See Ch. 281.

Zoning — See Ch. 347.

ARTICLE I
Planning Board

§ 202-1. Establishment.

- A. There is hereby established pursuant to P.L. 1975, c. 291,¹⁰⁰ in the Township of Montclair, a Planning Board of nine members consisting of the following four classes:
- (1) Class I: The Mayor or the Mayor's designee in the absence of the Mayor. The Mayor's designee, if any, shall be a resident of the Township of Montclair whose designation shall be made in writing and filed with the Municipal Clerk and the Secretary of the Planning Board.
 - (2) Class II: one of the officials of the municipality, other than a member of the governing body, to be appointed by the Mayor, provided that so long as there exists an Environmental Commission in the Township, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member for purposes of this section in the event that there be among the Class IV or alternated members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education.
 - (3) Class III: a member of the governing body, to be appointed by it.
 - (4) Class IV: six other citizens of the municipality, to be appointed by the governing body. The Class IV members shall hold no other municipal office, position or employment, except that one such member may be a member of the Zoning Board of Adjustment or Historic Preservation Commission and one member may be a member of the Board of Education. So long as there exists a Township Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be a Class IV Planning Board member, unless there be among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment or Historic Preservation Commission and a member of the Board of Education, in which case the member common to the Planning Board and Township Environmental Commission shall be deemed a Class II member of the Planning Board. For the purpose of this section, membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.
- B. Alternate members.
- (1) The governing body shall appoint not more than two alternate members who shall meet the qualifications of Class IV members. Alternate members shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2."
 - (2) No member or alternate shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member may, after public hearing if he or she request one, be removed by the governing body for cause.
 - (3) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in

100.Editor's Note: See N.J.S.A. 40:55D-1 et seq.

order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 202-2. Terms of office.

- A. The term of the Class I member shall correspond with his/her official tenure. If the Class I member is the Mayor's designee in the Mayor's absence, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission.
- B. The term of a Class IV member who is also a member of the Board of Adjustment, the Historic Preservation Commission or the Board of Education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever occurs first. The terms of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his or her term of office as a member of the Environmental Commission, whichever occurs first.
- C. All Class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.
- D. The terms of alternate members shall be for two years, running from January 1 of the year in which the appointment was made, and the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.
- E. If the Planning Board lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to the member's personal or financial interests therein, regular members of the Zoning Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board in order of seniority of continuous service to the Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between regular members of equal seniority, the Chair of the Board of Adjustment shall make the choice.

§ 202-3. Vacancies.

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

§ 202-4. Organization of Board.

The Planning Board shall elect a Chair and Vice Chair from the members of Class IV and select a Secretary and Assistant Secretary, who may be either members of the Planning Board or municipal employees designated by it.

§ 202-5. Planning Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than a member of the Township Law Department.

§ 202-6. Experts and staff.

The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 202-7. Powers and duties generally.

The Planning Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the municipality, pursuant to N.J.S.A. 40:55D-28, which Master Plan shall give due consideration to the relationship between the proposed physical development of the Township and the Master Plan for those areas outside its boundaries which in the Board's judgment bear essential relation to the planning of the municipality.
- B. To administer the provisions of Chapter 301, Subdivision of Land, and Chapter 281, Site Plan Review, of the Code of the Township of Montclair, in accordance with the provisions of said chapters and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- C. To approve conditional use applications in accordance with the provisions of Chapter 347, Zoning, and N.J.S.A. 40:55D-67.
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- E. To assemble data on a continuing basis as part of a continuous planning process.
- F. To annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.
- G. To consider and make report to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also to review other matters specifically referred to the Planning Board by the governing body pursuant to the provisions of N.J.S.A. 40:55D-26b.
- H. Variances; direction for issuance of certain permits.
 - (1) When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant, to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:
 - (a) Variances pursuant to § 202-21A(3) and N.J.S.A. 40:55D-70c.
 - (b) Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
 - (c) Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building not related to a street.
 - (2) Whenever relief is requested pursuant to this subsection, notice of the hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

- (3) The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and Chapter 347, Zoning.
- I. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.
- J. To issue subpoenas, administer oaths and take testimony in accordance with the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.)

§ 202-8. Time for action.

- A. Minor subdivisions. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Planning Board 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 subdivision approval. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law,¹⁰¹ or a deed clearly describing the approved minor subdivision, is filed by the developer with the county recording officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chairperson and Secretary of the Planning Board. The Planning Board may extend the one-hundred-ninety-day period for filing a minor subdivision plat or deed if the developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- B. Preliminary approval of major subdivisions. Upon submission of a complete application for a subdivision of 10 or fewer lots, 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 submission of a complete application for a subdivision of more than 10 lots, 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 for the subdivision.
- C. Ancillary powers. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for variance relief or direction for the issuance of a permit pursuant to § 202-7H, the Planning Board shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided by these regulations. Failure of the Planning

¹⁰¹.Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Administrative Officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

- D. Final approval. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application 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 final approval and a certificate of the Administrative Officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat by the Chair and Secretary of the Board unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. The Planning Board may for good cause shown extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. The Planning Board may extend the ninety-five-day or one-hundred-ninety-day period if the developer provides to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for an extension either before or after the original expiration date.

§ 202-9. Application procedure; concept plan approval.

- A. Applications for development within the jurisdiction of the Planning Board shall be filed with the Secretary of the Planning Board at least 25 days before the monthly meeting of the Board. The applicant shall obtain all necessary forms from the Secretary of the Board who shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board. A complete application shall mean an application certified as complete by the Secretary of the Board pursuant § 202-29.
- B. At the request of the developer, the Planning Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review. **[Amended 2-15-2011 by Ord. No. O-11-002]**

§ 202-10. (Reserved)¹⁰²

§ 202-10.1. Advisory Committee.

The Mayor may appoint one or more persons as a Citizens Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other

102.Editor's Note: Former § 202-10, Advisory Committee, was renumbered as § 202-10.1 1-19-2016 by Ord. No. O-15-042.

action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

§ 202-10.2. Development Review Committee. [Added 1-19-2016 by Ord. No. O-15-042]

- A. A Development Review Committee shall be established to review all site plan applications for development or requests for review presented to the Planning Board and the Board of Adjustment. The Development Review Committee shall consist of five members. The appointees shall be two members from the Planning Board (one of whom may be the Mayor) to be appointed by the Planning Board Chairman; one member from the Zoning Board of Adjustment to be appointed by the Board of Adjustment Chairman; the Planning Director; and the Board Engineer. The Zoning Officer, the Construction Official and other staff and Board consultants may provide advice to the Development Review Committee as required. The terms of all members shall be one year, commencing from the first day of January of the year of appointment. Vacancies shall be filled in the same manner as the original appointment, and those vacancies occurring other than by the expiration of a term shall be filled for the duration of the unexpired term. Members shall continue serving after the expiration of their terms until such time as their successors shall be appointed.
- B. The Development Review Committee shall conduct formal meetings, as required, in order to review site plan applications. Applicants may appear on their own behalf or may appear through an attorney, architect or engineer.
- C. The Development Review Committee shall have the authority to conduct formal hearings, after notice, and approve minor site plans that do not require variances, in accordance with Subsection F, below. At least four members of the Development Review Committee shall conduct the hearing, and the decision to approve a minor site plan by the Development Review Committee shall be unanimous. A record shall be kept of the hearing proceedings.
- D. The Development Review Committee shall have the following responsibilities:
 - (1) Determine compliance with the Township's zoning requirements, development regulations and design standards.
 - (2) Make recommendations on the design and technical elements of any application.
 - (3) Conduct formal hearings on minor site plans that do not include any variances.
- E. The report of the Development Review Committee shall be distributed to the Secretary of the Board where the formal application is to be presented and to the applicant. The report shall not be binding upon the Planning Board, the Zoning Board or the applicant, nor shall the applicant be relieved of any requirements or regulations which have not been addressed in the report.
- F. Approval of a minor site plan:
 - (1) The Development Review Committee may conduct formal hearings and approve or deny a minor site plan.
 - (2) The Planning Board may choose not to conduct formal hearings and, instead, refer the minor site plan to the Development Review Committee for action.
 - (3) An applicant may, at any time, choose to have the minor site plan application referred to the Planning Board for action. If a minor site plan is denied by the Development Review Committee, the matter shall be automatically referred to the Planning Board for action.

- (4) The Development Review Committee may impose reasonable conditions of approval on any minor site plan. If the applicant disagrees with any condition of approval, the site plan shall be referred to the Planning Board for action.
- (5) Applicants seeking Development Review Committee approval of a minor site plan shall publish notice of the public hearing in the official newspaper of the Township at least 10 days prior to the date of the Development Review Committee hearing.
- (6) In the event there is opposition to the minor site plan, as expressed by opponents appearing before the Development Review Committee, the minor site plan shall not be approved by the Development Review Committee and shall be forwarded to the Planning Board for action.
- (7) In reviewing any minor site plan, the Development Review Committee shall use the standards set forth in Montclair Code Chapter 281, Site Plan Review.

§ 202-11. Environmental Commission. [Added 10-30-2001 by Ord. No. 01-46¹⁰³]

- A. Creation. The municipality of Montclair's Environmental Commission is hereby established pursuant to Chapter 245 of the Laws of 1968 (N.J.S.A. 40:56A-1 to 40:56A-12), as amended by Chapter 35, P.L. 1972.
- B. Members.
 - (1) The Commission shall consist of seven members appointed by the Mayor, one of whom shall also be a member of the Planning Board and all of whom shall be residents of the municipality of Montclair; the members shall serve without compensation, but, within budgetary limitations, they may receive reimbursement for actual expenses incurred in the performance of their duties. The Mayor shall designate one of the members to serve as Chairman and presiding officer of the Commission. The terms of the office of the first Commissioners shall be for one, two or three years, to be designated by the Mayor in making his appointments, and their successors shall be appointed for terms of three years and until the appointment and qualification of their successors. **[Amended 6-11-2019 by Ord. No. O-19-018]**
 - (2) The Township Council may appoint not more than two alternate members to the Commission who shall be residents of the municipality of Montclair. Alternate members shall be designated at the time of appointment by the Township Council as "Alternate No. 1" and "Alternate No. 2." An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first. The term of the alternate members shall be for two years. The first alternate members of the Commission shall be appointed for the following terms:
 - (a) Alternate No. 1 for the two-year term expiring December 31, 2003;
 - (b) Alternate No. 2 for the one-year term expiring December 31, 2002.
 - (3) The Commission may establish in its discretion a nonvoting membership of associate members who will participate in meetings and activities of the Commission.
 - (4) The Township Council may remove any member, alternate member or advisory member of the

103.Editor's Note: This ordinance also provided for the redesignation of former § 202-11 as § 202-11.1.

Commission for cause, on written charges served upon the member and after the hearing thereon, at which the member shall be entitled to be heard in person or by counsel. A vacancy on the Commission occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. Failure to attend meetings for two consecutive months or two consecutive regular meetings without being excused by the majority of the authorized membership shall result in forfeiture of office by such member.

- C. Powers of Commission. The commission is established for the protection, development or use of natural resources, including water resources, located within territorial limits of the municipality of Montclair. The Commission shall have the power to conduct research into the use and possible use of the open land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print, and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its purposes, within budgetary limitations. It shall keep an index of all open areas, publicly or privately owned, including open marshland, swamps and other wetlands, in order to obtain information on the proper use of such areas and may from time to time recommend to the Planning Board plans and programs for inclusion in the Master Plan and the development and use of such areas. The Commission shall have the power to research, make application for and promote grants and other financial assistance programs which can provide funding to the Commission and/or the Township to fulfill the Commission's duties as set forth herein.
- D. Acquisitions by Commission. The Environmental Commission may, subject to the prior written approval of the governing body, acquire property, both real and personal, in the name of the municipality by gift, purchase, grant, bequest, devise or lease for any of its purposes and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations or reversions) as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly utilize open spaces and other land and water areas in the municipality.
- E. Records and annual reports. The Environmental Commission shall keep records of its meetings and activities and make an annual report to the governing body. All meetings and conduct of business shall be subject to the Open Public Meetings Act., N.J.S.A. 10:4-1 et seq.
- F. Appropriations. The Commission may appoint such clerks and other employees and incur such expenses as it may from time to time require, providing the same shall be within the limits of funds appropriated to it by the governing body or otherwise available to it.
- G. Studies and recommendations. The Environmental Commission shall have the power to study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, and protection of flora and fauna as well as any other appropriate topic upon which the Township Council seeks advice and study.

§ 202-11.1. Availability of applications for development.

Whenever the Environmental Commission has prepared and submitted to the Planning Board an index of the natural resources of the municipality, the Planning Board shall make available to the Environmental Commission an informational copy of every application for development to the Planning Board. Failure of the Planning Board to make such informational copy available to the Environmental Commission shall not

invalidate any hearing or proceeding.

ARTICLE II
Zoning Board of Adjustment

§ 202-12. Establishment; composition.

- A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven residents of the Township of Montclair appointed by the governing body to serve for terms of four years from January 1 of the year of their appointment. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment, provided that the initial term of no member shall exceed four years. Thereafter, the term of each member shall be for four years. Nothing in this chapter shall, however, be construed to affect the term of any present member of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.
- B. No member of the Zoning Board of Adjustment may hold any elective office or position with the municipality.
- C. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.
- D. Four alternate members shall also be appointed by the governing body to serve for a term of two years. Alternate members shall be designated by the governing body as "Alternate No. 1," and "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4" and shall serve in rotation during the absence or disqualification of any regular member or members. The terms of no more than two alternate members shall expire in the same year. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. [Amended 1-20-2015 by Ord. No. O-15-002]

§ 202-13. Officers.

The Board of Adjustment shall elect a Chair and Vice Chair from its members and shall also select a Secretary and Assistant Secretary, who may or may not be Board members or municipal employees.

§ 202-14. Board of Adjustment Attorney.

There is hereby created the office of Attorney to the Zoning Board of Adjustment. The Zoning Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation of the Zoning Board of Adjustment Attorney, who shall be an attorney other than a member of the Township Law Department.

§ 202-15. Experts and staff.

The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 202-16. Rules and regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony,

the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

§ 202-17. Powers.

- A. The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69 et seq., and amendments and supplements thereto, and with the provisions of this chapter.
- B. It is further the intent of this chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, but not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of this chapter or any term, clause, sentence or word hereof and the Zoning Map in accordance with the general rules of construction applicable, to legislative enactments.
- C. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of Chapter 347, Zoning, in accordance with the general or specific rules contained herein and with the general rules hereby laid down, that equity shall be done in cases where the strict construction of the provisions of that chapter would work undue hardship. The powers and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in N.J.S.A. 40:55D-1 et seq. or subsequent statutes in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may be properly filed with the Board for its decision thereon.

§ 202-18. Appeals and application of Zoning Officer.

- A. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of the Zoning Officer based on or made in the enforcement of Chapter 347, Zoning, or official map. Each appeal shall be taken within the 20 days prescribed by the statute by filing a notice of appeal with the officer from whom the appeal is taken, together with three copies of said notice with the Secretary of the Board of Adjustment. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. **[Amended 7-21-2015 by Ord. No. O-15-016]**
- B. Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to the Zoning Officer shall be filed with the Secretary of the Board of Adjustment at least 25 days before the monthly meeting of the Board. The applicant shall obtain all necessary forms from the Secretary of the Board, who shall inform the applicant of the steps to be taken to initiate application and of the regular meeting dates of the Board. As used in this chapter, a complete application shall mean an application certified as complete by the Secretary of the Board pursuant to § 202-31. **[Amended 7-21-2015 by Ord. No. O-15-016]**
- C. An appeal to the Board of Adjustment stays all proceedings in furtherance of the action in respect of which the decision appealed from was made unless the officer from whose action the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by an order of the Superior Court of New Jersey on application or notice to the officer from whose action the appeal is taken and on due cause shown.

§ 202-19. Power to reverse or modify decision. [Amended 7-21-2015 by Ord. No. O-15-016]

In exercising the above-mentioned power, the Board of Adjustment may, in conformity with the provisions of N.J.S.A. 40:55D-1 et seq., or amendments thereto or subsequent statutes applying, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and to that end have all the powers of the Zoning Officer from whom the appeal was taken.

§ 202-20. Expiration of variance.

Any variance from the terms of Chapter 347, Zoning, hereafter granted by the Board of Adjustment, permitting the erection or alteration of any structure or structures or permitting a specified use of any premises, shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within one year from the date of publication of the notice of the judgment or determination of the Board of Adjustment, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the governing body or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding. The Board of Adjustment or the Planning Board, whichever gave the original approval, may grant an extension of time beyond the one-year limitation upon written request of the owner.

§ 202-21. Powers granted by law.

A. The Board of Adjustment shall have such powers as are granted by law to:

- (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of Chapter 347, Zoning.
- (2) Hear and decide requests for interpretation of the Zoning Map or Chapter 347, Zoning, or for decisions upon other special questions upon which such Board is authorized to act by Chapter 347, Zoning.
- (3) Variances.
 - (a) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to Chapter 347, Zoning, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.
 - (b) Where in an application or appeal relating to a specific piece of property the purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) would be advanced by a deviation from the requirements of Chapter 347, Zoning, and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to Chapter 347, Zoning; provided, however, that no variance from those departures enumerated in Subsection A(4) of this section shall be granted under this

subsection, and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to § 202-7H(l)(a).

- (4) In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to Chapter 347, Zoning, to permit a use or principal structure in a district restricted against such use or principal structure, an expansion of a nonconforming use, deviation from a specification or standard pertaining solely to a conditional use, an increase in permitted floor area ratio, an increase in permitted density except as applied to the required lot area for a lot or lots for detached one- or two-dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision or a height of a principal structure which exceeds by 10 feet or 10% maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members.
- B. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Chapter 347, Zoning. Any application under any subsection of this section may be referred to any appropriate person or agency, including the Planning Board, for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

§ 202-22. Additional powers.

- A. The Board of Adjustment shall in addition to the powers specified in § 202-21, have power given by law in accordance with N.J.S.A. 40:55D-76, as amended and supplemented, to:
 - (1) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map; or
 - (2) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-35 for a building or structure not related to a street.
- B. The Board of Adjustment shall have the power to grant to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to N.J.S.A. 40:55D-37 et seq., or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the Board is reviewing an application for approval of a use variance pursuant to § 202-21A(4) of this chapter.
- C. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and Chapter 347, Zoning. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in this chapter for the approval in question, and the special vote pursuant to § 202-21A(4) hereof shall not be required.

§ 202-23. Time for decision.

- A. The Board of Adjustment shall render decision not later than 120 days after the date an appeal is taken

from the decision of the administrative officer or the date of the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72b. Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further times as may be consented to by the applicant shall constitute a decision favorable to the applicant.

- B. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this chapter. Failure of the Board of Adjustment to act within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer as to the failure of the Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
- C. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6, in the case of a site plan, the Board of Adjustment 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.

ARTICLE III

Provisions Applicable to Both Planning Board and Zoning Board of Adjustment**§ 202-24. Conflicts of interest.**

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he or she has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, he or she shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

§ 202-25. Meetings.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process or for lack of a quorum.
- B. Special meetings may be provided for at the call of the Chair or on the request of any two Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of the members present at the meeting except as otherwise required by any provision of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., or this chapter. Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, Chapter 231, P.L. 1975.¹⁰⁴
- F. A member of a Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings; provided, however, that such Board member has available to him or her the transcript or recording of all the hearings from which he or she was absent and certifies in writing to the Board that he or she has read such transcript or listened to such recording.

§ 202-26. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the administrative officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his or her use as provided for in the rules of the Board.

§ 202-27. Escrow deposits. [Amended 7-12-2005 by Ord. No. 05-34; 7-25-2006 by Ord. No. 06-42; 2-15-2011 by Ord. No. O-11-002]

¹⁰⁴Editor's Note: See N.J.S.A. 10:4-6 et seq.

- A. Escrow deposits. Municipal agencies shall require escrow deposits by an applicant in accordance with the provisions of this section. The escrow deposits shall be in addition to the application fees required in § 202-28. Such funds shall be used by the municipal agencies to pay professionals for services rendered to the Township or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and review by outside consultants when an application is of a nature beyond the scope of expertise of the professionals normally utilized by the municipality. The only cost that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged for any municipal, clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses except as provided for specifically by statute, nor shall a municipal professional add any such charge to his bill.
- B. Scope of reimbursed services. The Township shall be entitled to be reimbursed for the review of applications, both as to completeness and as to content; for the review and preparation of documents, such as, but not limited to, drafting resolutions, developer's agreements and necessary correspondence with the applicant or the applicant's professionals. Prior to and as a condition of an application being considered complete, an applicant shall submit to the Township of Montclair, to be held in escrow, the amount indicated below. Where more than one fee category applies, the fee shall equal the total of the fees required for each type of application requested.
- (1) Subdivisions.
- (a) Concept plans: \$250.
 - (b) Minor subdivision: \$1,500.
 - (c) Preliminary plat of a major subdivision: \$2,000, plus \$200 per lot.
 - (d) Final plat of a major subdivision: 1/2 of preliminary fee.
 - (e) Amendment to approved plats: 1/2 of escrow fee.
 - (f) Lot line adjustments: \$500.
- (2) Site plans.
- (a) Concept plans: \$250.
 - (b) Minor site plan: \$1,000. **[Amended 6-18-2013 by Ord. No. O-13-23; 7-13-2021 by Ord. No. O-21-14]**
 - (c) Preliminary site plan: \$2,000, plus \$200 per dwelling unit (residential), or plus \$100 per 1,000 square feet of building area or portion thereof (nonresidential).
 - (d) Final site plan: 50% of preliminary site plan escrow deposit.
 - (e) If an applicant submits a preliminary and final site plan to be processed simultaneously, the applicant must file the appropriate fees as set forth in Subsection B2(c) and (d) of this section.

- (f) Amendments to approved site plans: 1/4 of escrow fee.
- (3) Conditional use permit: \$500.
- (4) Variances and appeals.
 - (a) Applications pursuant to N.J.S.A. 40:55D-70(a), (b) and (c) for multifamily and nonresidential development: \$500 for the first variance and \$250 for each additional variance. **[Amended 4-25-2023 by Ord. No. O-23-09]**
 - (b) Applications pursuant to N.J.S.A. 40:55D-70(a), (b) and (c) for one- and two-family homes: \$500. **[Amended 7-13-2021 by Ord. No. O-21-14]**
 - (c) Use variance application pursuant to N.J.S.A. 40:55D-70(d): \$1,500.
- (5) New or expanded parking lots (for multifamily and nonresidential development): \$1,500.
- (6) New or expanded residential parking areas with five or fewer parking spaces: \$850. **[Amended 7-13-2021 by Ord. No. O-21-14]**
- (7) Applications requiring Board Engineer review: \$750. **[Amended 4-25-2023 by Ord. No. O-23-09]**
- (8) Telecommunications. **[Amended 12-17-2024 by Ord. No. O-24-35]**
 - (a) Applications for macrocell wireless telecommunications antenna and equipment: \$5,000.
 - (b) Applications for small cell wireless telecommunications facilities: \$5,000 per new small cell wireless facility, including any new pole, cabinet, tower, antenna or support structure (collectively or individually "small cell wireless facility"), as applicable, and \$500 per alteration, expansion, or modification to an existing small cell wireless facility.
- (9) Request for an interpretation of the Zoning Ordinance¹⁰⁵ or other special questions: \$1,000.
- (10) Appeal from an administrative decision: \$1,500.
- (11) Historic Preservation Commission certificate of appropriateness:
 - (a) Conceptual: \$150.
 - (b) Facade improvement: \$500.
 - (c) Signage, awnings and awning recoverings: \$150.
 - (d) Site plan: \$800.
 - (e) Wireless telecommunications and equipment: \$300.
- (12) Zone change: \$1,500.
- (13) Historic preservation advisory review: \$250. **[Added 6-18-2013 by Ord. No. O-13-23]**
- (14) Demolition application review: \$350. **[Added 11-16-2020 by Ord. No. O-20-22]**

105. Editor's Note: See Ch. 347.

- C. Deposit of escrow funds; refunds. Deposits received from any applicant in excess of \$5,000 shall be held by the Chief Financial Officer in a special interest-bearing deposit account, and, upon receipt of bills from professionals and approval of said bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. The municipality shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100 for the year. If the amount of interest exceeds \$100, the entire amount shall belong to the applicant and shall be refunded to him by the municipality annually or at the time the deposit is repaid or applied for the purposes for which it was deposited, as the case may be, except that the municipality may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses. All sums not actually so expended shall be refunded to the applicant within 90 days after the final decision by the appropriate municipal agency with respect to such application, upon certification by the Board Secretary that such application has been finally decided.
- D. Payments.
- (1) Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional which voucher shall identify the personnel performing the service, and each date the services were performed, the hours spent to one-quarter-hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the municipality simultaneously to the applicant and the municipal agency for whom said services were performed.
 - (2) The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are \$1,000 or less or on a monthly basis if monthly charges exceed \$1,000. If an escrow account or deposit contains insufficient funds to enable the municipality or approving authority to perform required application reviews or improvement inspections, the Chief Financial Officer shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period post a deposit to the account in an amount to be agreed upon by the municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.
- E. Payments required prior to issuance of permits. No zoning permits, building permits, certificates of occupancy or any other types of permits may be issued with respect to any approved application for development until all bills for reimbursable services have been received by the municipality from professional personnel rendering services in connection with such application and payment has been made.
- F. Close-out procedures.
- (1) The following close-out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 40:D-1 et seq. and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved in accordance with N.J.S.A. 40:55D-53, in the case of improvement inspection escrows and

deposits.

- (2) The applicant shall send written notice by certified mail to the Chief Financial Officer of the municipality and the approving authority and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the municipality within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest in accordance with N.J.S.A. 40:55D-53.1, shall be refunded to the developer along with the final accounting.
- G. Scope of charges. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with the conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any state governmental agency and not under municipal jurisdiction except to the extent consultation with a state agency is necessary due to the effect of state approvals on the subdivision or site plan.
- H. Limitation of inspection fees. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work, and such inspections shall be reasonably based on the approved development plans and documents.
- I. Substitution of professionals. If the municipality retains a different professional or consultant in the place of a professional originally responsible for development application review, or inspection of improvements, the municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or approving authority shall not bill the applicant or charge to the deposit or the escrow account for any such services.
- J. Estimate of cost of improvements. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Municipal Engineer based on documented construction costs for the public improvements prevailing in the general area of the municipality. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127.
- K. Appeals.
- (1) An applicant shall notify in writing the governing body with copies to the Chief Financial Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for a service rendered to the municipality in reviewing applications, for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to N.J.S.A. 40:55D-53.2. The governing body or its designee shall within a reasonable time attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127, any charge to an escrow account or deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the Municipal Engineer pursuant to N.J.S.A.

40:55D-53.4. An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, approving authority, and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by N.J.S.A. 40:55D-53.2(c), except that if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S.A. 40:55D-53.2(c). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.

- (2) Appeals shall be taken in accordance with the rules and procedures established by the County Construction Board of Appeals. During the pendency of any appeal, the municipality or approving authority shall continue to process, hear and decide the application for development and to inspect the development in the normal course and shall not withhold, delay or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer of the municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer of the municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of a municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

§ 202-28. Application fees. [Amended 6-13-2006 by Ord. No. 06-20; 2-15-2011 by Ord. No. O-11-002]

A. The following constitutes the Planning Board and Board of Adjustment fee schedule:

- (1) Subdivisions.
 - (a) Concept plan: \$150.
 - (b) Minor subdivision: \$300.
 - (c) Major subdivision.
 - [1] Preliminary approval: \$500.
 - [2] Final approval: \$200.
 - (d) Amendments to approved plats: 50% of original application fee.
 - (e) Lot line adjustment: \$300. **[Added 10-4-2011 by Ord. No. O-11-52]**
- (2) Site plans.
 - (a) Concept plan: \$250.

- (b) Minor site plan: \$500.
- (c) Preliminary major site plan approval: \$500, plus \$25 per housing unit for residential development; and \$500, plus \$10 per 1,000 square feet of building area for nonresidential development.
- (d) Final major site plan approval: 50% of the fee required for preliminary site plan.
- (e) Amendments to approved site plans: 50% of application fee.
- (3) Conditional use permit: \$300.
- (4) Variances.
 - (a) Use variance for a residential use: \$500.
 - (b) Use variance for a nonresidential use: \$500.
 - (c) Other variances for a single-family residential use: \$200.
 - (d) Other variances for all other uses: \$200 per variance.
- (5) Historic Preservation Commission certificate of appropriateness: \$100.
- (6) Appeal from administrative decision: \$200.
- (7) Request for interpretation of the Zoning Ordinance¹⁰⁶ or other special questions: \$200.
- (8) Direction for issuance of a permit pursuant to maintaining the Official Map (N.J.S.A. 40:55D-34 and 40:55D-36): \$250.
- (9) Certified list of property owners: \$10. **[Amended 10-4-2011 by Ord. No. O-11-52]**
- (10) Reproduction of recorded hearing: \$10 per compact disc.
- (11) Reproduction of transcript: Same as cost to municipality, not to exceed statutory maximum.
- (12) Reproduction records, plus postage.
 - (a) Per page, up to 10 pages: \$0.50.
 - (b) Per page, 11 pages or more: \$0.25.
- (13) Special meeting: \$800.
- (14) Zoning permit: \$50.
- (15) Zone change: \$1,000. **[Amended 9-29-2015 by Ord. No. O-15-025]**
- (16) Zoning Map: \$20. **[Added 10-4-2011 by Ord. No. O-11-52; amended 9-29-2015 by Ord. No. O-15-025]**
- (17) Master Plan: **[Added 10-4-2011 by Ord. No. O-11-52; amended 9-29-2015 by Ord. No. O-15-025]**

106. Editor's Note: See Ch. 347.

- (a) Unified Land Use and Circulation Element: \$100.
 - (b) Housing Element and Fair Share Plan: \$10.
 - (c) Conservation Element: \$10.
 - (d) Stormwater Management Element: \$10.
 - (e) Historic Preservation Element: \$10.
- (18) Total demolition application: \$200. **[Added 11-16-2020 by Ord. No. O-20-22]**
- (19) Small cell wireless facility permit. **[Added 12-17-2024 by Ord. No. O-24-35]**
- (a) For applications that do not include the installation of any new structures within the right-of-way: \$500 for up to five small wireless facilities with an additional \$100 for each small cell wireless facility beyond five.
 - (b) For applications that include the installation of a new structure within a right-of-way: \$1,000 for up to five small wireless facilities with an additional \$100 for each small cell wireless facility beyond five.
 - (c) Annual right-of-way occupancy fee: \$270 per annum for each structure within a right-of-way paid within 30 days of the issuance of the applicable permit and annually thereafter.
- B. When an application involves two or more fee categories, the fee shall equal the total of the fees required for each type of application requested.

§ 202-28.1. Inspection fees. [Added 6-13-2006 by Ord. No. 06-20]

An applicant shall pay inspection fees equal to the actual expenses incurred with respect to:

- A. The inspection of on-site, on-tract, off-site and off-tract improvements constructed or installed by the applicant in accordance with the terms and conditions of subdivision and/or site plan approval or the grant of a variance;
 - B. The testing of materials or construction work performed by the applicant in the event that such testing is deemed necessary by the Township;
 - C. Analyses or tests to determine compliance by the applicant with any monitoring standards established by the terms and conditions of subdivision or site plan approval; and
 - D. The inspection of improvements constructed or installed by the applicant for purposes of determining compliance with any maintenance obligations of the applicant.
- (1) The improvements constructed or installed to meet the requirements of subdivision or site plan approval, which are the subject of inspection, include the following: pavement subgrade, base course pavement, surface course pavement, sidewalks, storm drainage facilities, sanitary sewerage facilities, street signs, topsoil and erosion protection, grading, landscaping and monuments. An applicant shall give notice at least 24 hours in advance of the undertaking of any work which is the subject of inspection. Overtime inspection will not be provided unless special arrangements are made therefor prior to the overtime period. Inspection fees shall be calculated in accordance with the actual time required for inspection at rates established annually by the Board of Adjustment and/or the Planning Board.

- (2) At the time of the granting of final subdivision or site plan approval, or prior to the commencement of any work on subdivision or site plan improvements, if such work is undertaken before final approval, the applicant shall pay to the Township an initial deposit for inspection fees. Such initial deposit shall be in accordance with N.J.S.A. 40:55D-53h and shall be equal to the greater of \$500 or 5% of the estimated costs of improvements. The estimated costs of improvements shall be determined by the Board Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality. For inspection fees less than \$10,000 fees may be paid in two equal installments. For inspection fees over \$10,000, fees may be paid in four equal installments. Whenever the balance falls below 10% of the deposit, the developer shall deposit the next installment.
- (3) Inspections shall not relieve the applicant from the obligation to perform work strictly in accordance with the approved plans and specifications or the obligation to perform work in a workmanlike manner using first-class materials. Until such time as the Township Council shall approve the construction and installation of any improvement by a resolution adopted pursuant to the provisions of N.J.S.A. 40:55D-53e(1), any improvements not in compliance with the aforesaid plans, specifications or standards shall be replaced, reconstructed or repaired by the applicant notwithstanding any previous oversight or error in inspection.

§ 202-29. Application procedures. [Amended 10-6-1998 by Ord. No. 98-40; 2-20-2007 by Ord. No. 07-07; 4-21-2011 by Ord. No. O-11-023]

Applications for development shall be filed with the Secretary of the Board at least 25 days before the monthly meeting of the Board. The applicant shall obtain all necessary forms from the Secretary of the Board who shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board. An application for development shall mean an application certified as complete by the Secretary of the Board pursuant to § 202-29.1 and § 202-29.2.

§ 202-29.1. Administrative requirements. [Added 4-21-2011 by Ord. No. O-11-023; 7-21-2015 by Ord. No. O-15-016; 9-24-2019 by Ord. No. O-19-029; 12-17-2024 by Ord. No. O-24-35; 7-14-2026 by Ord. No. O-26-24]

An application for development shall include all of the following items:

- A. Properly completed application forms (20 copies) which contain the following information:
 - (1) The proposal/business overview.
 - (2) Property information, including zone of property and block/lot.
 - (3) Applicant and owner information.
 - (4) Application fee and escrow fee (if required) paid to the Township of Montclair.
 - (5) Proof that taxes have been paid, certified by the Municipal Tax Collector (original).
 - (6) Applicant's verification signature and owner's authorization signature.
 - (7) Proposed signage with the application, including dimensions, proposed materials and a rendering of the sign.
 - (8) Statement from the applicant and/or owner, if a corporation, partnership, limited liability company, or other type of entity, containing a list of names and addresses of all stockholders,

individual partners or members, as applicable, who possess either a 10% or greater interest in a corporation's stock of any class, or at least 10% or greater interest in a partnership's, limited liability company's, or other entity's profits and/or losses. If a corporation, partnership, limited liability company, or other type of entity's disclosed as owning at least 10% or greater interest in the applicant, then that corporation, partnership, limited liability company, or other type of entity shall list all of the names and addresses of all stockholders, individual partners or members, as applicable, who possess either a 10% or greater interest in a corporation's stock of any class, or at least 10% or greater interest in a partnership's, limited liability company's, or other entity's profits and/or losses. This requirement shall be followed for every corporation, partnership, limited liability company, or other type of entity until the names of all individual persons exceeding the 10% ownership criterion have been listed.

- B. Paper, and digital copies in PDF format, of plans, maps and construction details as required in the appropriate checklist. The requirement for digital copies is optional but strongly encouraged for applications involving one- and two-family homes.
- C. If a corporation, partnership, limited liability company, or other entity, copies of articles of incorporation or organization, certificates of formation, partnership agreements, and most recent business registration form.
- D. Affidavit of ownership/authorization form for the subject property.
- E. Copies of approvals of other government agencies as may be required or an affidavit indicating that application has been made to such agencies.
- F. A listing of all variance requests, waiver requests and checklist waiver requests.
- G. Original survey signed and sealed by a New Jersey-licensed surveyor (20 copies). An ALTA/ACSM survey is required for all major site plan and subdivision applications.
- H. Photos of the building and property.
- I. Telecommunications applications. All applications for a small cell wireless facility must include the information required in § 202-29.1 and the following information more specifically described in § 347-17.3:
 - (1) Network plan.
 - (2) Structural report.
 - (3) Visual impact analysis.
 - (4) FCC compliance report.
 - (5) FCC license.
 - (6) Drive test data and maps.
 - (7) Denial of service and dropped call records.
 - (8) Indemnification and insurance.
 - (9) Proprietary or confidential information.

§ 202-29.2. Checklists. [Added 4-21-2011 by Ord. No. O-11-023; 2-21-2017 by Ord. No. O-17-002;

9-24-2019 by Ord. No. O-19-029; 11-18-2019 by Ord. No. O-19-021; 7-14-2026 by Ord. No. O-26-24]

In addition to the administrative requirements above, the following items are required for submission of a complete application to the Planning Board or the Board of Adjustment. Some items may not apply to all applications. The applicant may request that certain items be waived by the Board.

A. Concept plans.

- (1) Name and address of the applicant and the owner.
- (2) Name, address and title of the person preparing the plan, maps and accompanying data.
- (3) Date of preparation and the dates of each revision, where applicable.
- (4) Signature and certification, as appropriate, by a registered engineer, land surveyor and/or architect, with property survey data to be based on current conditions as they exist.
- (5) Lot and block number or numbers of the lot or lots from the Township Tax Maps.
- (6) Length and bearings of the lot lines of the proposed project.
- (7) Map scale and north arrow.
- (8) Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.
- (9) All existing structures and wooded areas within the site and within 200 feet thereof.
- (10) Existing contours at sufficient intervals to determine the general slope and natural drainage of the land.
- (11) The original and proposed lot layout, lot dimensions and total area of each lot, if applicable.
- (12) A site illustration, indicating with sufficient accuracy all boundaries of the site with natural features of the land and showing all developed, undeveloped and to-be-developed portions.

B. Variance applications

- (1) Name and address of the applicant and the owner.
- (2) Name, address and title of the person preparing the plan, maps and accompanying data.
- (3) Date of preparation and the dates of each revision, where applicable.
- (4) Signature and certification, as appropriate, by a registered engineer, land surveyor and/or architect, with property survey data to be based on current conditions as they exist.
- (5) Lot and block number or numbers of the lot or lots from the Township Tax Maps.
- (6) Area of lot or lots and the length and bearings of the lot lines of the proposed project.
- (7) Scale and north sign and key map relating the site to the streets in the surrounding area.
- (8) Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.
- (9) Existing and proposed principal building or structure and all accessory buildings or structures,

if any, with dimensions showing present and finished grade elevations at all corners and entrances of said building or structures, first-floor elevations and the complete floor plans and elevation plans thereof.

(10) Other information necessary to show the nature and extent of the variance requested.

C. Minor site plan.

- (1) Name and address of the applicant and the owner
- (2) Name, address and title of the person preparing the plan, maps and accompanying data.
- (3) Date of preparation and the dates of each revision, where applicable.
- (4) Signature and certification, as appropriate, by a registered engineer, land surveyor and/or architect, with property survey data to be based on current conditions as they exist.
- (5) An appropriate place for the signatures of the Chair and Secretary of the Planning Board or Zoning Board of Adjustment and the Township Engineer.
- (6) Lot and block number or numbers of the lot or lots from the Township Tax Maps.
- (7) Area of lot or lots and the length and bearings of the lot lines of the proposed project.
- (8) Scale and north sign and key map relating the site to the streets in the surrounding area.
- (9) Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.
- (10) Existing and proposed principal building or structure and all accessory buildings or structures, if any, with dimensions showing present and finished grade elevations at all corners and entrances of said building or structures, first-floor elevations and the complete floor plans and elevation plans thereof.

D. Major site plan and subdivision applications.

- (1) Name and address of the applicant and the owner.
- (2) Name, address and title of the person preparing the plan, maps and accompanying data.
- (3) Date of preparation and the dates of each revision, where applicable.
- (4) Signature and certification, as appropriate, by a registered engineer, land surveyor and/or architect, with property survey data to be based on current conditions as they exist.
- (5) An appropriate place for the signatures of the Chair and Secretary of the Planning Board or Zoning Board of Adjustment and the Township Engineer.
- (6) The lot and block number or numbers of the lot or lots from the Township Tax Maps.
- (7) Length and bearings of the lot lines of the proposed project.
- (8) Scale and north sign and key map relating the site to the streets in the surrounding area.
- (9) Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.

- (10) Location, size and nature of all existing and proposed rights-of-way, easements and other encumbrances which may affect the lot or lots in question.
- (11) Location, size and nature of the entire lot or lots in question and any contiguous lots owned by the applicant or in which the applicant has a direct or indirect interest.
- (12) Location, names and pavement and right-of-way widths of all existing and proposed streets abutting the lot or lots in question.
- (13) Property lines of all abutting properties, together with the names and addresses of the owners as disclosed on the Township Tax Maps and tax rolls as of the date of the site plan application, and the location of the existing structures within 100 feet of the property line for properties abutting the site in question.
- (14) Existing and proposed principal building or structure and all accessory buildings or structures, if any, with dimensions showing present and finished grade elevations at all corners and entrances of said building or structures, first-floor elevations and the complete floor plans and elevation plans thereof.
- (15) Present and proposed topography, based on New Jersey Geodetic Control Survey datum, at two-foot contour intervals, including 100 feet outside the site to show the relationship to adjoining properties.
- (16) Existing and proposed setback dimensions, landscaped areas and trees over six inches caliper.
- (17) Location, type and size of existing and proposed curbs, sidewalks, driveways, street pavement widenings, fences, retaining walls, parking space areas and the layouts thereof and all off-street loading areas, together with the dimensions of all the foregoing, for the site and the nearest portions of properties abutting the site; number of employees, total and maximum, on one shift.
- (18) Location, type and size of existing and proposed catch basins and storm drainage facilities, both frame and invert elevations and all utilities, both above- and below ground.
- (19) All existing and proposed signs and their size, nature of construction and location, and all existing and proposed exterior lighting, including size, nature of construction, location, height, the area and direction of illumination and the lumen power.
- (20) Soil erosion and sediment control plan for sites where over 5,000 square feet of ground area is being disturbed.
- (21) Cost estimates and proposed construction and maintenance bonds and construction time schedules related to building construction for any required improvements not proposed to be completed before the issuance of a certificate of occupancy.
- (22) Plans for any off-tract improvements, including cost estimates and calculations of the share to be borne by the developer.
- (23) Any and all other information and data necessary to meet any of the requirements of this chapter not listed above.
- (24) Landscape plans, showing name, quantity, location, size as to caliper and height of existing and proposed trees, shrubs and all plant materials, prepared by an architect, engineer, professional planner or a licensed landscape architect.

- (25) Satisfaction of Chapter 294, Steep Slopes, where applicable.
- (26) A map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area.
- (27) A stormwater management plan, if required.
- (28) Streetscape elevations of proposed buildings and buildings immediately adjacent to proposed buildings.
- (29) Exterior garbage and recycling storage areas for multifamily and commercial developments.
- (30) The most recent version of the "Leadership in Energy & Environmental Design Rating System" or equivalent system is a submission requirement and shall evaluate the extent to which the following measures are incorporated in the project or, alternatively, indicate the reason(s) why the measure is not being provided:
 - (a) The name of any LEED-accredited or similar professionals working on the project.
 - (b) A list of appliances, fixtures, and construction techniques that meet the U.S. Environmental Protection Agency's ENERGY STAR® and WaterSense standards.
 - (c) A list of green and recycled building materials to be used in construction, renovation, and maintenance.
 - (d) A waste management plan for construction and demolition waste.
 - (e) Use of any water-efficient landscaping.
 - (f) Use of any on-site renewable energy systems, such as solar, wind or geothermal.
 - (g) Details of roofing materials designed to reduce the urban heat island effect.
 - (h) Details of any sustainable stormwater systems employed, such as bioswales/rain gardens, permeable surfaces, grey water systems, retention and detention facilities or continuous trenching.
 - (i) A list of native and well-adapted species used in landscaping to minimize the need for fertilization and pesticides.
 - (j) The location, number and type of any electric charging stations.
- (31) A master signage plan as required in § 347-111D.
- (32) The location and type of any affordable housing unit as required in § 347-156.
- (33) The location and details of all mechanical equipment, including any required screening, as required in § 347-24.
- (34) A pedestrian mobility plan.
- (35) A snow removal plan.
- (36) A description of how the project addresses universal design and adaptability principles.

- E. Applications involving total demolition or partial demolition of historic structures. Any application subject to Subsections A, B, C, or D. above that requires, contemplates or otherwise involves the total demolition of an historic structure as defined in § 347-142.1B shall include the items listed in § 347-142.1E(2).

§ 202-30. Hearings.

- A. Rules. The Planning Board and Zoning Board of Adjustment shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq., or of this chapter.
- B. Oaths. The officer presiding at the hearing or such person as he or she may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- D. Evidence. Applicants are encouraged to utilize digital technology, such as PowerPoint, when presenting evidence to the Board. A video screen, laptop and projector will be made available to all applicants at meetings. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence. **[Amended 2-21-2017 by Ord. No. O-17-002]**
- E. Records. Each Board shall provide for the verbatim recording of the proceedings by either a stenographer or by mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to an interested party at his or her expense. All transcripts shall be certified in writing by the transcriber to be accurate.

§ 202-31. Notice of hearing.

- A. Notice of hearing shall be given for the following applications for development:
- (1) Any request for a variance from the requirements of Chapter 347, Zoning.
 - (2) Any request for conditional use approval.
 - (3) Any request for minor site plan approval or preliminary approval of a major site plan.
 - (4) Any request for preliminary approval of a major subdivision.
 - (5) Any request for the issuance of a permit to build within the bed of a mapped street, public drainageway, flood control basin or public area reserved on the Official Map, or in a lot not abutting a street.
 - (6) Any request for minor subdivision approval. **[Added 9-25-2001 by Ord. No. 01-43]**
- B. Whenever notice is required for a hearing on an application for development, the applicant shall give notice thereof as follows:

- (1) Public notice shall be given by publication in the official newspaper of the municipality at least 10 days prior to the date of the hearing.
 - (2) Notice shall be given to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions of the property which is the subject of such hearing and all adjoining property which is under common ownership and whether located within or without this municipality. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his or her agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his or her address as shown on said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its President, a Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a limited liability company may be made by service upon any member thereof. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas. The requirement of service shall be satisfied by notice to the condominium association, in the case of any unit owner whose unit is above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it.
- C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or by certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection B of this section to the owners of lands in such adjoining municipality which are located within 200 feet of the subject premises.
- D. Notice shall be given by personal service or certified mail to the Essex County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within 200 feet of a municipal boundary.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to N.J.S.A. 40:55D-10.
- G. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development. Notice pursuant to Subsections C, D, E and F of this section shall not be deemed to be required unless public notice pursuant to N.J.S.A. 40:55D-12a and b is required.
- H. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- I. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the

property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.

- J. Site plan review. The Planning Board may waive notice and public hearing as to any application for conventional site plan review involving premises having less than 10,000 square feet of building floor area.

§ 202-32. List of property owners. [Amended 2-15-2011 by Ord. No. O-11-002]

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Township Planner or the Assistant Township Planner shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee as required in § 202-28, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to Article III, § 202-31B.

§ 202-33. Decisions.

- A. The Planning Board and the Zoning Board of Adjustment shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:
- (1) A resolution adopted at a meeting held within the time period provided in the Act¹⁰⁷ for action by the Board on the application for development; and
 - (2) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to this section (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board; however the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by §§ 202-33B and 202-34. If the Board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the Board to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the municipality.
- B. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant, or if represented, then to his or her attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Planning Board or the Board of Adjustment, which shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.

107. Editor's Note: The "Act" refers to N.J.S.A. 40:55D-1 et seq.

- C. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6, in the case of a site plan, the Planning Board or Board of Adjustment 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.

§ 202-34. Publication of decision.

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Secretary of the Planning Board or Zoning Board of Adjustment, as the case may be.

§ 202-35. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

§ 202-35.1. Dismissal of inactive applications. [Added 4-21-2011 by Ord. No. O-11-023]

- A. Applications that have not been deemed complete within six months of the submission date will be dismissed without prejudice.
- B. Applications that have been deemed complete shall be scheduled for a hearing before the appropriate board within the time of action stated in the Municipal Land Use Law. If an applicant fails to appear when scheduled before a board and the time for action pursuant to the Municipal Land Use Law will expire before the next regularly scheduled Planning Board or Board of Adjustment meeting, the application will be dismissed without prejudice.
- C. Extensions on the time for action may be granted for no more than one year from the required time for action, after which the application will be dismissed without prejudice.

ARTICLE IV

Appeals**§ 202-36. Appeals to Zoning Board of Adjustment.**

An appeal to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of administrative officer of the municipality based on or made in the enforcement of Chapter 347, Zoning, or Official Map. Such appeal shall be taken within 20 days by filing a notice of appeal in the manner set forth in § 202-18A, and in accordance with the provisions of N.J.S.A. 40:55D-72a.

ARTICLE V
Miscellaneous Provisions

§ 202-37. Definitions.

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 term "administrative officer" for all purposes under the Municipal Land Use Law and under this chapter shall mean the Secretary of the Planning Board or the Secretary of the Zoning Board of Adjustment, as the case may be, unless another official is specified herein.

§ 202-38. Filing of copy.

Immediately upon adoption of this chapter, the Municipal Clerk shall file a copy with the Essex County Planning Board as required by law. The Clerk shall also file with said Essex County Planning Board copies of all other ordinances of the municipality relating to land use, such as Chapter 301, Subdivision of Land, Chapter 347, Zoning, and Chapter 281, Site Plan Review, which have heretofore not been filed.

ARTICLE VI
Development Fees

[Added 10-8-2002 by Ord. No. 02-43; amended 3-4-2003 by Ord. No. 03-7; 2-22-2005 by Ord. No. 05-06; 6-24-2008 by Ord. No. 08-17; 8-4-2009 by Ord. No. O-037-09; 11-27-2018 by Ord. No. O-18-043; 3-12-2026 by Ord. No. O-26-05]

§ 202-39. Purpose.

This ordinance establishes standards for the collection, maintenance and expenditure of development fees, including the payment of any necessary costs related to the administration of affordable units included in the municipal plan. All nonresidential development in the State is subject to the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

§ 202-40. General nonresidential and residential development fee requirements.

- A. Montclair Township shall impose, collect, retain, and expend fees collected from nonresidential development in accordance with the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7 N.J.A.C. 5:99-3.1.
- B. All amounts collected shall be deposited and shall be accounted for separately, by payer, source property or development, and date of deposit as set forth at N.J.A.C. 5:99-5.
- C. As a Qualified Urban Aid Municipality, Montclair Township may continue to impose residential development fees regardless of its compliance status.
- D. The Township shall collect 100% of the development fee for residential and nonresidential development at or prior to the issuance of the certificate of occupancy.
 - (1) The Township shall collect up to 50% of the development fee at the time of issuance of the building permit. The remaining portion shall be collected at, or prior to, the issuance of the certificate of occupancy. Developers shall be notified of the fee by the municipality, including when payment is required to be made, at the time of land use board approval or application for a construction permit.
 - (2) For residential developments, regardless of the time of collection or the date of approvals, the fee shall be based on the residential development fee percentage pursuant to the municipal ordinance in effect on the date that residential building permits are issued.
 - (3) For nonresidential developments as of July 17, 2008, the fee shall be 2.5% of the EAV, or such other amount pursuant to the Non- Residential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7.
- E. Imposed and collected residential development fees that are contested shall be deposited under protest in an interest-bearing escrow account by the Township. The Code Enforcement Official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.
- F. A developer may challenge nonresidential development fees imposed pursuant to N.J.S.A. 52:27D-329.1 et seq., by filing a challenge with the Director of the Division of Taxation. Collected fees shall be placed in an interest-bearing escrow account by the Township. The Code Enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise

eligible for a certificate of occupancy. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

- G. Any ordinance adopted by the Township for the purpose of imposing and collecting development fees shall provide that, in the event any of the conditions described at N.J.A.C. 5:99-5.6 occur, the Division shall be authorized, on behalf of the municipality, to direct the manner in which all funds in the affordable housing trust fund shall be expended. A three-party escrow agreement between the municipality, the institution in which funds are deposited, and the Division shall be maintained at all times.
- H. The Township shall identify the development fees collected on its monitoring report pursuant to N.J.A.C. 5:99-5 and include a plan for the use of the funds in its spending plan pursuant to N.J.A.C. 5:99-2.2.

§ 202-41. Definitions. [Amended 11-27-2018 by Ord. No. O-18-043]

The following terms, as used in this article, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

AFFORDABLE HOUSING TRUST FUND — A separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter. As used in this chapter, "municipal affordable housing trust fund" shall also mean a "municipal development trust fund" and a "municipal development fee trust fund."

DEVELOPER — The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to 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, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use 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 N.J.S.A. 40:55D-1 et seq.

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and regulated by applicable COAH rules.

DIVISION — The Division of Local Planning Services within the New Jersey Department of Community Affairs (DCA).

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c).

Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

GREEN BUILDING STRATEGIES — Those strategies that minimize the impact of development on the environment and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

MIXED-USE DEVELOPMENT — Any development that includes both a nonresidential development component and a residential development component, and shall include developments for which: 1) there is a common developer for both the residential development component and the nonresidential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or nonresidential development, or both, or otherwise to contribute resources to the development; and 2) the residential and nonresidential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

NONRESIDENTIAL DEVELOPMENT —

- A. Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;
- B. Hotels, motels, vacation timeshares, and child-care facilities; and
- C. The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A. 52:27D-330 et seq.

NONRESIDENTIAL DEVELOPMENT FEE — The fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

PROGRAM — The Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

RESIDENTIAL DEVELOPMENT FEE — Money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

SPENDING PLAN — A method of allocating funds contained in an affordable housing trust fund account, which includes, but is not limited to, development fees collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to N.J.S.A. 52:27D-329.1 et seq., for the purpose of meeting the housing needs of low- and moderate-income individuals.

§ 202-42. Residential development fees.

- A. Imposition of fees.
 - (1) Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the Equalized Assessed Value (EAV) for all new residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing

residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

- (2) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6% of the Equalized Assessed Value (EAV) for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Township of Montclair, shall be exempt from development fees.
- (2) In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that preliminary or preliminary and final site plan approval is granted, or, where site plan approval is not applicable, the date the construction permit is issued.
- (3) Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.
- (4) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.
- (5) Non-profit organizations that have received tax exempt status pursuant to the Internal Revenue Code, providing current evidence of that status is submitted to the municipal clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- (6) Federal, State, county, and local governments shall be exempt from paying a development fee.

§ 202-43. Nonresidential development fees.

A. Imposition of fees. Nonresidential development fees shall be imposed pursuant to the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted below, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, and such calculation shall be made at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.
- (4) A developer of property that received preliminary site plan approval, pursuant to N.J.S.A. 40:55D-46, or final approval pursuant to N.J.S.A. 40:55D-50 prior to July 17, 2008, and that was subject to the payment of a validly imposed municipal nonresidential development fee ordinance shall continue to be subject to the conditions of the municipally imposed fee.
- (5) A payment in lieu of constructing affordable housing shall not be required by a developer of nonresidential property as a condition of nonresidential development.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2.5% unless otherwise exempted below.
- (2) The 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) All nonresidential construction of buildings or structures on property used by houses of worship, and property used for educational purposes, that are tax-exempt pursuant to N.J.S.A. 54:4-3.6, shall be exempt from the imposition of a nonresidential development fee pursuant to this section, provided that the property continues to maintain its tax exempt status pursuant to that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a nonresidential development fee pursuant to the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7:
 - (a) Parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, or whether the parking lot is developed as an independent nonresidential development;
 - (b) Any nonresidential development that is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers that are developed in conjunction with, or funded by, a nonresidential developer;
 - (c) Nonresidential construction resulting from a relocation of, or an on-site improvement to, a nonprofit hospital or a nursing home facility;
 - (d) Projects that are located within a specifically delineated urban transit hub, as defined pursuant to N.J.S.A. 34:1B-208;
 - (e) Projects that are located within an eligible municipality, as defined pursuant to N.J.S.A. 34:1B-208, the Urban Transit Hub Tax Credit Act, when a majority of the project is located within a one-half-mile radius of the midpoint of a platform area for a light rail system; and
 - (f) Projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the New Jersey Department of

Transportation.

- (4) A developer of a mixed-use development shall be required to pay the nonresidential development fee relating to the nonresidential development component of a mixed-use development subject to the provisions at N.J.S.A. 52:27D-329.1 et seq.
- (5) Nonresidential construction connected with the relocation of the facilities of a for-profit hospital shall be subject to the fee authorized to be imposed pursuant to this section to the extent of the increase in equalized assessed valuation.
- (6) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to Statewide Nonresidential Development Fee Act shall be subject to the fee at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (7) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Montclair as a lien against the real property of the owner.

§ 202-44. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the construction official responsible for the issuance of a construction permit.
- B. The payment of nonresidential development fees shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued for any nonresidential development until such time as the fee imposed pursuant to this section has been paid by the developer. A nonresidential developer may deposit with the appropriate entity the development fees as calculated by the Township under protest, and the Code Enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy.
 - (1) The Construction Official shall notify the Township tax assessor of the issuance of the first building permit for a development that may be subject to a residential or nonresidential development fee.
 - (2) Within 90 days of receipt of that notice, the Township tax assessor, based on the plans filed, shall provide an estimate of the EAV of the residential or non- residential development. The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the Township tax assessor of any and all requests for the scheduling of a final inspection on property that may be subject to a nonresidential development fee.
 - (3) Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated EAV of the improvements of the residential or nonresidential development in accordance with the rules adopted by the Treasurer pursuant to N.J.S.A. 54:1-35.35; calculate the residential or nonresidential development fee pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7; and thereafter notify the developer of the amount of

the residential or nonresidential development fee.

- (4) Should the Township fail to determine or notify the developer of the amount of the residential or nonresidential development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth at N.J.S.A. 40:55D-8.6.b.
 - (5) Upon tender of the estimated residential or nonresidential development fee, provided the developer is in full compliance with all other applicable laws or rules, the Township shall issue a final certificate of occupancy for the subject property.
- C. Except as provided in § 202-43A(3) hereinabove, 50% of the initially calculated development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of the certificate of occupancy.
- D. Appeal of development fees.
- (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township of Montclair. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township of Montclair. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 202-45. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount.
- (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by ordinance or by agreement with the Township of Montclair;
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;

- (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the Township of Montclair's affordable housing program.
- C. The Township shall not spend, or commit to spend, any affordable housing trust funds, including Statewide nonresidential fees collected and deposited into the Township's affordable housing trust fund, without first obtaining the approval of the expenditure as part of its compliance certification or by the Division pursuant to N.J.S.A. 52:27D-329.2.a(4). If the Township is within the jurisdiction of the Program or a court of competent jurisdiction, affordable housing trust funds shall not be spent unless the Program has approved a plan for spending such funds in accordance with N.J.S.A. 52:27D-329.2.a(4) or the Division has approved spending plan expenditures for emergent opportunities to create affordable housing after a municipality has obtained compliance certification in conformance with N.J.A.C. 5:99-4.
- D. All affordable housing trust funds shall be deposited in a separate, interest-bearing account. In establishing the account, the Township shall provide written authorization, in the form of a three-party escrow agreement between the Township, the bank or other financial institution, and the Division, to permit the disbursement of the funds, as provided for at N.J.A.C. 5:99-5.6, shall be maintained at all times. This authorization shall be submitted to the Division within 21 days from the opening of the trust fund account and/or within 21 days of any change in banks or other financial institutions in which trust funds are deposited.
- E. With the approval of the Department's Division of Local Government Services, the Township may invest its affordable housing trust fund in the State of New Jersey cash management fund, provided that the amount of money in the cash management fund that comprises the funds and income attributable to such funds shall at all times be identifiable.
- F. All interest accrued in the affordable housing trust fund shall only be used on eligible affordable housing activities included in an approved spending plan or an emergent opportunity authorized by the Division.
- G. The Township shall be subject to N.J.A.C. 5:99-4.
- H. The Montclair Affordable Housing Trust Fund shall not be expended:
- (1) To reimburse the Township for activities that occurred prior to the authorization of a municipality to collect development fees;
 - (2) On attorney fees or court costs to obtain a judgment of compliance or order of repose, including any associated administration costs;
 - (3) On any costs in connection with a challenge to a determination of the municipality's fair share obligation; or
 - (4) On any costs in connection with a challenge to the municipality's obligation, housing element, or fair share plan.
- I. In addition to the restrictions at Subsection H above, no more than 20% of all affordable housing trust funds, exclusive of those collected prior to July 17, 2008, to fund an RCA, may be expended on administration, in accordance with N.J.A.C. 5:99-2.4.

- J. The Township shall set aside a portion of its affordable housing trust fund for the purpose of providing affordability assistance to low- and moderate-income households in affordable units included in a municipal fair share plan, in accordance with N.J.A.C. 5:99-2.5.

§ 202-46. Use of funds.

- A. Montclair Township may use affordable housing trust funds for any housing activity as itemized in the spending plan and approved by the Program or as approved by the Division as an emergent opportunity to create affordable housing. Such activities include, but are not limited to:
- (1) A rehabilitation program whose purpose is to renovate deficient housing units that are occupied by low- and moderate-income households, in accordance with the New Jersey State Housing Code, N.J.A.C. 5:28, or the requirements of the Rehabilitation Subcode, N.J.A.C. 5:23-6, as applicable. Any recaptured funds from a rehabilitation program shall be deposited into a municipality's affordable housing trust fund and subject to the provisions thereof;
 - (2) New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
 - (3) Creation of a market to affordable program to pay down the cost of unrestricted units and offer them in sound condition, for sale or rent, at affordable prices to low- and moderate-income households to address all or a portion of the affordable housing obligation;
 - (4) Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be prorated based on the proportion of affordable housing units included in the development;
 - (5) Acquisition and/or improvement of land to be used for affordable housing;
 - (6) Accessory dwelling units;
 - (7) The extension of expiring controls;
 - (8) The construction of group homes and supportive and special needs housing;
 - (9) Maintenance and repair of affordable housing units;
 - (10) To defray the costs of structured parking; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
 - (11) Affordability assistance in accordance with N.J.A.C. 5:99-2.5;
 - (12) Repayment of municipal bonds issued to finance low- and moderate-income housing activity;
 - (13) Any other activity as specified in the approved spending plan or as approved by the Division as an emergent affordable housing opportunity; or
 - (14) Any other activity approved by the Division.
- B. Use of funds for administrative expenses.
- (1) No more than 20% of all affordable housing trust funds shall be expended on administration.

- (2) Administrative expenses may include costs reasonably related to the determination of the fair share obligation and the development of a municipal housing element and fair share plan and may include fees necessary to develop or implement affordable housing programs, an affirmative marketing program, and/or expenses that are reasonably necessary for compliance with the processes of the Program, including, but not limited to, the costs to the municipality of resolving a challenge pursuant to the Program.
- (3) Administrative expenses may also include costs associated with functions carried out in compliance with UHAC, including activities related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements.
- (4) The proportion of a municipal employee's salary related to the Municipal Housing Liaison (MHL) functions and fees for required educational programs, may be paid as an administrative expense from the municipal affordable housing trust fund.

C. Use of funds for affordability assistance.

- (1) The Township shall set aside a portion of all development fees collected and interest earned for the purpose of providing affordability assistance to low- and moderate-income households in affordable units included in the municipality's fair share plan.
- (2) Affordability assistance for very-low-income households may include offering a subsidy to developers of inclusionary or 100% affordable housing developments or buying down the cost of low- or moderate-income units in a municipal fair share plan to make them affordable to very-low-income households, including special needs and supportive housing opportunities.
- (3) The Township may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds.

D. Barrier-free escrow. An affordable housing trust fund may include fees collected to adapt affordable unit entrances to be accessible in accordance with the Act and the Barrier Free Subcode, N.J.A.C. 5:23-7. The Township shall set forth the mechanism by which it will collect and distribute funds intended to convert adaptable entrances in compliance with the technical design standards of the Barrier Free Subcode at N.J.A.C. 5:23-7. Funds collected for this purpose shall at all times be identifiable from other funds. If the Township collects, or anticipates collecting, funds to adapt affordable unit entrances, this information shall be identified on its monitoring report pursuant to N.J.A.C. 5:99-5.

E. Payments in lieu of constructing affordable units on-site.

- (1) Payments in lieu of constructing affordable units shall not be imposed on any nonresidential development.
- (2) The Township shall identify funds collected as payments in lieu of constructing affordable units onsite in its monitoring report pursuant to N.J.A.C. 5:99-5.2 and include a plan for the use of the funds in its spending plan.
- (3) Payment-in-lieu fees shall be deposited into the municipality's affordable housing trust fund, but shall be accounted for separately from any other fees collected by a municipality. Whenever a payment-in-lieu fee is assessed by the Township pursuant to this section, a development fee

authorized pursuant to N.J.S.A. 52:27D-329.2 shall not be charged in connection with the same development.

- F. Other funds. The affordable housing trust fund may also contain recaptured funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines and application fees, and any other funds collected by the municipality in connection with its affordable housing programs. The Township shall identify these other funds on its monitoring report pursuant to N.J.A.C. 5:99-5 and include a plan for the use of the funds in its spending plan.

§ 202-47. Monitoring.

A. Trust Fund monitoring.

- (1) Montclair Township shall annually submit monitoring information to the Division that includes the information described at N.J.A.C. 5:99-5.3. Monitoring reports for each calendar year shall be in the form of a certification specifying that all information provided in the Affordable Housing Monitoring System (AHMS) is complete, accurate, and current through the most recent calendar year and shall be accompanied by a year-end bank or other financial institution statement that will be used to reconcile municipal reporting. Municipal monitoring information certifications shall be submitted by the municipal housing liaison, or their designee, which shall be a municipal employee, through the AHMS, by February 15 of each year for trust fund activity through December 31 of the previous year.
- (2) Montclair Township shall provide the Division with a copy of the adopted development fee ordinance and a detailed accounting of all fees that have been collected into the affordable housing trust fund and all expenditures from the previous calendar year.
- (3) Monitoring information shall include a full accounting of any affordable housing trust fund activity, including the source and amount of funds collected, the amount and purpose for which any funds have been expended, and the status of the plan to spend the remaining balance pursuant to N.J.A.C. 5:99-5.5. All municipal monitoring information submissions shall be made through the online AHMS, made available by the Department on the Division's website.
- (4) The Township shall deposit all fees collected, including nonresidential or residential development fees, into the municipal affordable housing trust fund.

B. Completed affordable unit monitoring information.

- (1) Montclair Township shall submit information to the Division concerning completed affordable housing units pursuant to this article on an annual basis. Municipalities shall provide the following information to the Division:
 - (a) The number and type of affordable housing units actually constructed, including:
 - [1] The housing type;
 - [2] The tenure of the housing, in the case of a rental unit;
 - [3] The affordability level;
 - [4] The number of bedrooms;
 - [5] The date and expiration of affordability controls; and

- [6] Whether occupancy is reserved for families, senior citizens, or other special populations;
- (b) Construction commencement dates;
- (c) Certificates of occupancy granted;
- (d) Start and expiration dates of deed restrictions; and
- (e) Residential and nonresidential development fees collected and expended, including:
 - [1] The purposes and amounts of such expenditures; and
 - [2] The current balance in the municipality's affordable housing trust fund.
- (2) Monitoring reports for each calendar year shall be in the form of a certification, submitted by the municipal housing liaison, or their designee, which shall be a municipal employee, through the Affordable Housing Monitoring System (AHMS), by February 15 of each year, specifying that all information provided in the AHMS is complete, accurate, and current through the most recent calendar year.

§ 202-48. Ongoing collection of fees.

- A. The ability for Montclair to impose and collect and retain residential development fees and the ability to retain nonresidential development fees and maintain an affordable housing trust fund is subject to maintaining its status as a compliant municipality, except that a Qualified Urban Aid Municipality may continue to retain residential development fees regardless of its compliance status pursuant to the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7. If a court of competent jurisdiction finds that Montclair Township has failed to maintain its status as a compliant municipality, the Township may be subject to forfeiture of any or all funds remaining within their affordable housing trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to N.J.S.A. 52:27D- 320.
- B. Requirement to spend or commit to expend development fees within four years of the date of collection.
 - (1) Development fees shall be expended or committed for expenditure within four years of the date of collection. For purposes of this section, funds are expended, or committed for expenditure, if one of the following standards has been met:
 - (a) The funds have been spent on a housing activity in accordance with N.J.A.C. 5:99-2.3;
 - (b) An executed contract or legally enforceable agreement funding the implementation of an allowable housing activity in accordance with N.J.A.C. 5:99-2.3, and the following, as applicable:
 - [1] A municipal resolution or ordinance creating the affordable housing program;
 - [2] A policy and procedures manual; and
 - [3] Completion of affordable housing trust fund and unit monitoring, indicating units completed or rehabilitated; or
 - [4] Another document demonstrating a firm and binding obligation to spend such funds

in a manner consistent with addressing its respective affordable housing obligation;

(c) For affordability assistance expenses, the Division has been provided with the following:

- [1] Demonstration of a firm and binding obligation to spend such funds in a manner consistent with addressing the affordability assistance obligation required by the Act or a municipal resolution or ordinance and an executed contract or agreement for expenses related to providing affordability assistance to existing low- and moderate-income households;
- [2] A policies and procedures manual for any affordability assistance program executed by the municipality; and
- [3] A contract with an administrative agent to carry out the program if applicable;

(d) For administrative expenses, the Division has been provided with the following:

- [1] A municipal resolution or ordinance and an executed contract or agreement for expenses related to administering affordable housing.

C. A municipality that fails to expend or commit to expend the amounts collected within four years of the date of collection pursuant to N.J.S.A. 52:27D-329.2 shall be required to transfer any unexpended and/or uncommitted revenue collected to the New Jersey Affordable Housing Trust Fund established pursuant to N.J.S.A. 52:27D-320.

D. Enforcement.

- (1) The Township's ability to impose and collect funds and maintain its affordable housing trust fund pursuant to this chapter shall be conditioned on its compliance with all requirements of this chapter.
- (2) Occurrence of any of the following deficiencies may result in the Division taking an action pursuant to Subsection C:
 - (a) Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - (b) Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - (c) Failure to comply with the requirements of the Nonresidential Development Fee Act and N.J.A.C. 5:99-3;
 - (d) Failure to address the Division's conditions for approval of a plan to spend funds within the deadlines imposed by the Division;
 - (e) Failure to submit accurate monitoring reports pursuant to this article within the time limits imposed by the Act, this chapter, and/or the Division;
 - (f) Expenditure of funds on activities not approved by the Program or the Division or otherwise permitted by law;
 - (g) Revocation of compliance certification;
 - (h) Failure of a municipal housing liaison or administrative agent to comply with the

requirements set forth at N.J.A.C. 5:99-6, 7, and 8; or

- (i) Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.

ARTICLE VII

**Regulations for Performance and Maintenance Guarantees for New Development
[Added 6-11-2019 by Ord. No. O-19-019]****§ 202-49. Guarantees required; surety; release.**

A. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to Subsection d. of § 52 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-65), the Township of Montclair may require and shall accept in accordance with the standards adopted by ordinance and regulations adopted pursuant to § 1 of P.L. 1999, c. 68 (N.J.S.A. 40:55D-53a) for the purpose of assuring the installation and maintenance of certain on tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee in accordance with Subsection A(1) and (2).

(1) Performance guarantee.

- (a) The developer shall furnish a performance guarantee in favor of the Township of Montclair in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Board or Municipal Engineer, as appropriate, according to the method of calculation set forth in § 15 of P.L. 1991, c. 256 (N.J.S.A. 40:55D-53.4), for the following improvements as shown on the approved plans or plat; streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law," P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.; repealed by § 2 of P.L. 2011, c. 217) or N.J.S.A. 46:26B-1 through 8, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements. The Board or Municipal Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.
- (b) The Township of Montclair may also require a performance guarantee to include, within an approved phase or section of a development, privately-owned perimeter buffer landscaping, as required by local ordinance or imposed as a condition of approval. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.
- (c) In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Township of Montclair in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under a performance guarantee, required pursuant to Subsection A(1)(a), which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of

the temporary certificate of occupancy guarantee shall be determined by the Zoning Officer. At no time may a municipality hold more than one guarantee or bond of any type with respect to the same line item. The "temporary certificate of occupancy guarantee" shall be released by the Zoning Officer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

- (d) A developer shall furnish to the municipality a safety and stabilization guarantee, in favor of the Township of Montclair. At the developer's option, a safety and stabilization guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee. A safety and stabilization guarantee shall be available to the Township of Montclair solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

- [1] Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure; and
- [2] Work has not recommenced within 30 days following the provision of written notice by the Township of Montclair to the developer of the municipality's intent to claim payment under the guarantee. The Township shall not provide notice of its intent to claim payment under a safety and stabilization guarantee until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt. The amount of a safety and stabilization guarantee for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000. The amount of a safety and stabilization guarantee for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus 2 1/2% of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus 1% of bonded improvement costs in excess of \$1,000,000. The Township shall release a separate safety and stabilization guarantee to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph. The Township shall release a safety and stabilization guarantee upon the Board or Municipal Engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

(2) Maintenance guarantee.

- (a) The developer shall post with the Township of Montclair, prior to the release of a performance guarantee required pursuant to Subsection A(1)(a), A(1)(b), or both Subsection A(1)(a) and (b), a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.
- (b) The developer shall post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Board or Municipal Engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of

the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in § 15 of P.L. 1991, c. 256 (N.J.S.A. 40:55D-53.4).

- (c) The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.
- (3) In the event that other governmental agencies or public utilities are or will be the owner of the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Township for such utilities or improvements.
- B. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Board or Municipal Engineer according to the method of calculation set forth in § 15 of P.L. 1991, c. 256 (N.J.S.A. 40:55D-53.4) as of the time of the passage of the resolution.
- C. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Township of Montclair for the reasonable cost of the improvements not completed or corrected and the Township may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," P.L. 1971, c. 198 (N.J.S.A. 40A:11-1 et seq.).
- D. Closing procedures.
 - (1) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the Municipal Clerk, that the Board or Municipal Engineer prepare, in accordance with the itemized cost estimate prepared by the Board or Municipal Engineer and appended to the performance guarantee pursuant to Subsection A of this section, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Board or Municipal Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Board or Municipal Engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.
 - (2) The list prepared by the Board or Municipal Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory. The report prepared by the municipal engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to Subsection A of this section.

E. Procedures.

- (1) The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Board or Municipal Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the engineer and appended to the performance guarantee pursuant to Subsection A of this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and "safety and stabilization guarantee" posted may be retained to ensure completion and acceptability of all improvements. The safety and stabilization guarantee shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction. For the purpose of releasing the obligor from liability pursuant to its performance guarantee the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the engineer and appended to the performance guarantee pursuant to Subsection A of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the municipality may retain 30% of the amount of the total performance guarantee and safety and stabilization guarantees to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy guarantee has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the municipality below 30%.
- (2) If the Board or Municipal Engineer fails to send or provide the list and report as requested by the obligor pursuant to Subsection D of this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party. If the governing body fails to approve or reject the bonded improvements determined by the municipal engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the municipal engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the engineer and appended to the performance guarantee pursuant to Subsection A of this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
- (3) In the event that the obligor has made a cash deposit with the municipality or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, provided that if the developer has furnished a safety and stabilization guarantee, the

municipality may retain cash equal to the amount of the remaining safety and stabilization guarantee.

- F. If any portion of the required bonded improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.
- G. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Board or Municipal Engineer.
- H. Inspection fees.
 - (1) The obligor shall reimburse the municipality for reasonable inspection fees paid to the engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth in Subsection H(1)(a) and (b). The municipality may require the developer to post the inspection fees in escrow in an amount:
 - (a) Not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee under Subsection H(1)(a), Subsection H(1) (b), or both Subsection H(1)(a) and (b); and
 - (b) Not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under Subsection H(1)(a) of this section, which cost shall be determined pursuant to § 15 of P.L. 1991, c. 256 (N.J.S.A. 40:55D-53.4).
 - (2) For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the municipal engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.
 - (3) For those developments for which the inspection fees total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the municipal engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.
 - (4) If the municipality determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to Subsection H(1)(a) and (b), is insufficient to cover the cost of additional required inspections, the municipality may require the developer to deposit additional funds in escrow provided that the municipality delivers to the developer a written inspection escrow deposit request, signed by the municipal engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.
- I. In the event that final approval is by stages or sections of development pursuant to Subsection a of § 29 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-38), the provisions of this section shall be applied by stage or section.
- J. To the extent that any of the improvements have been dedicated to the municipality on the subdivision plat or site plan, the municipal governing body shall be deemed, upon the release of any performance

guarantee required pursuant to Subsection A of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the municipal engineer. (cf. P.L. 2013, c. 123, § 3).

MONTCLAIR CODE

Chapter 204

LIBRARY PROPERTY

**[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

General Regulations for Borrowing of Books**[Adopted 7-21-1981 by Ord. No. 81-37 (Ch. 149 of the 1979 Code)]****§ 204-1. Return of material upon notice.**

No person shall detain or fail to return any book, periodical, pamphlet, artistic reproduction, phonograph recording, audiovisual material or any other item borrowed from the Free Public Library of the Township of Montclair after 30 days have elapsed from the date of posting, by certified mail, return receipt requested, of a notice demanding return thereof, addressed to said person at the last furnished address.

§ 204-2. Damaging material prohibited.

No person shall cut, tear, deface, disfigure, damage or destroy any book, periodical, pamphlet, artistic reproduction, phonograph recording, audiovisual material or any other item, or any part thereof, borrowed from, owned by or in the custody of said library.

§ 204-3. Adoption and posting of rules.

The Library Board shall adopt and post in a conspicuous place in the Free Public Library buildings rules, regulations and procedures governing the borrowing of books, periodicals, pamphlets, artistic reproductions, phonograph recordings, audiovisual materials and any other items available for borrowing by the public.

§ 204-4. Compliance.

No person shall remove any book, periodical, pamphlet, artistic reproduction, phonograph recording, audiovisual material or any other item from the Free Public Library buildings without complying with the rules, regulations and procedures of the library for borrowing such items.

§ 204-5. Filing of complaint.

For any violation of § 204-1 hereunder, the Attorney, or other designated agent for the Library Board, is authorized to file a complaint in the Municipal Court only after the following condition has been met: The Attorney or other authorized agent for the Library Board has sent a second certified letter, return receipt requested, after 35 days have elapsed from the date of posting of the first certified letter mentioned in § 204-1 above, informing the person that the book or other item is still overdue and that said person is subject to prosecution pursuant to this article.

§ 204-6. Violations and penalties.

Any person who violates or refuses to comply with the provisions of this article shall, upon conviction thereof, be subject to a fine of \$50. A fine of \$100 shall be imposed for the second and each succeeding offense.

ARTICLE II
No-Smoking Policy
[Adopted 7-16-2013 by Ord. No. O-13-32]

§ 204-7. Purpose.

It is the intent of the Council of the Township of Montclair, in enacting this article, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco-users, especially children; by protecting the public from exposure to secondhand smoke; and by affirming and promoting a healthy environment in the Township of Montclair.

§ 204-8. Definitions.

The following words and phrases, whenever used in this article, shall have the meanings defined in this section unless the context clearly requires otherwise:

LIBRARY GROUNDS — The entire lot on which a branch of the public library is situated, including all outside or partially enclosed areas within the boundaries of the lot.

PUBLIC LIBRARY — All branches of the Montclair Free Public Library, present and future. Presently, the main branch is located at 50 South Fullerton Avenue and the Bellevue branch is located at 185 Bellevue Avenue.

TOWNSHIP PROPERTY — Property owned by the Township of Montclair, including rights-of-way, roadways and sidewalks.

SMOKE — The gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

SMOKING — Engaging in an act that generates smoke, such as, without limitation, possessing a lighted pipe, a lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

§ 204-9. Smoking prohibited.

- A. Smoking on all library grounds is prohibited.
- B. Smoking on all Township property situated within 50 feet of the library grounds is prohibited.

§ 204-10. Violations and penalties; enforcement.

- A. The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.
- B. Each incident of smoking in violation of this article is an infraction subject to a fine of \$50 for the first offense and \$100 for each subsequent offense.
- C. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this article shall also constitute a violation of this article.
- D. Any violation of this article is hereby declared to be a nuisance.

- E. Enforcement of this section may be by the Police Department, Fire Prevention Officer, Health Inspector or Code Enforcement Officer.

LIGHTING

Chapter 207

LIGHTING

[HISTORY: Adopted by the Township Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Invasive Lighting**[Adopted 1-19-2016 by Ord. No. O-15-036]****§ 207-1. Findings; resolution of disputes.**

The Council finds that unwanted invasive light detracts from the quality of life in the Township, and can adversely affect relations between neighbors; consequently, the Council encourages the use of mediation and other forms of alternate dispute resolution to resolve disputes involving such invasive light.

§ 207-2. Certain lighting prohibited.

It is hereby declared to be a nuisance, and it shall be unlawful, for any person to make or cause or suffer or permit to be made or caused, upon any premises owned, occupied or controlled by him or her, any light that is directed at one or more points at a residence not on the same lot as the light source or that shines into window or windows of residences, to the annoyance of any residents thereof. Such light is declared to be injurious to the well-being, health, peace and comfort of the inhabitants of the Township or any number thereof.

§ 207-3. Exceptions.

This article shall not apply to:

- A. Public entities.
- B. Sports fields and sports venues.

§ 207-4. Violations and penalties.

Any person who violates any provision of this article 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 this article 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. In cases where the complainant is a private party, mediation is recommended, subject to the Court's discretion.

Chapter 213**MULTIFAMILY BUILDINGS**

[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. 98 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Unfit buildings — See Ch. 108.

Housing standards — See Ch. 190, Art. I.

Uniform construction codes — See Ch. 121.

Property maintenance — See Ch. 247.

Fire prevention — See Ch. 153 and Ch. 157.

Solid waste — See Ch. 292.

§ 213-1. Registration required.

- A. No person shall own, operate or manage any building or structure within the Township of Montclair which is occupied by two or more families as tenants of the owner or lessor of such building and structure without registering the owner and management of said building and structure with the Municipal Clerk, upon a form provided by the Municipal Clerk. Each such registration form shall include the name and address of the owner of such premises, the name and address of the lessor if other than the owner, and the name and address of the agent in charge of the premises residing in the Township of Montclair.
- B. The owner and the lessor (if other than the owner) of any such building and structure within the Township of Montclair shall register such building and structure as required in Subsection A hereof within 30 days after the adoption of this chapter. Any person who shall become the owner or lessor (if other than the owner) of any such building or structure in the Township of Montclair subsequent to the date of adoption of this chapter shall comply with such registration provisions within 30 days from and after the date he or she shall become such owner or lessor.

§ 213-2. Enforcement; inspections.

- A. The Inspector of Buildings of the Township of Montclair hereby is designated and authorized to administer and enforce the provisions of this chapter.
- B. The Inspector of Buildings and the Housing Officers of the Township of Montclair hereby are authorized and directed to make inspection of all buildings and structures within the Township of Montclair occupied by two or more families as tenants of the owner or lessor of such buildings and structures. For the purpose of making such inspections, the said Inspector of Buildings and Housing Inspectors may enter, inspect, examine and survey any such building and structure at all reasonable times.
- C. The owner, lessor and occupant of every building or structure occupied by two or more families as tenants of the owner or lessor of such building and structure shall give such officers free access to such building and structure and its premises at all reasonable times for the purpose of such inspection, examination and survey.

§ 213-3. Nuisances.

Any building or structure in the Township of Montclair which is or which contains any defects dangerous, harmful or detrimental to the life, safety or health of the occupants of said building or structure or to the general public shall constitute a nuisance.

§ 213-4. Nuisance abatement procedure.

- A. Whenever the Inspector of Buildings shall determine that a building or structure or any portion thereof constitutes a nuisance or has or contains a defect or defects in violation of any ordinance of the Township of Montclair or law of the State of New Jersey applicable thereto, he or she shall give written notice thereof to the owner or lessor of such building or structure. Such notice shall set forth the condition or conditions constituting the nuisance or the defect or defects and specify a reasonable time, not to exceed 30 days, within which the owner or lessor, as the case may be, shall abate, correct and eliminate such nuisance, defects or conditions.
- B. Such notice shall be served personally upon the owner, the lessor (if other than the owner) or the agent in charge of the premises residing in the municipality. If the owner or lessor has failed to register said premises with the Municipal Clerk and to designate an agent with respect to the premises residing in the municipality, as required by § 213-1A of this chapter, or where such an agent has been designated but cannot be found at the address given in the registration, the posting of said notice upon the premises in a conspicuous place shall constitute sufficient notice to the owner and lessor.

§ 213-5. Failure to comply with abatement order.

- A. If, within the time permitted, the owner or lessor shall fail to abate the nuisance, correct the defect or defects or put the premises in proper condition so as to comply with the requirements of applicable ordinances and state laws after notice thereof and opportunity so to do as provided in § 213-4 of this chapter, the Inspector of Buildings shall forthwith file a report with the governing body of the Township of Montclair, which said report shall set forth in detail the condition or conditions constituting the nuisance or the defect or defects and shall contain a copy of the notice served upon the owner or lessor, the date and manner thereof and a certification that such condition or conditions still exist.
- B. Upon the filing of the report by the Inspector of Buildings, the governing body shall examine the same and, after hearing upon at least five days' notice to the owner or lessor served in the same manner as is provided in § 213-4B of this chapter, if it is of the opinion that such action is in the public interest, the governing body may adopt a resolution to abate the nuisance, to correct the defect or defects or to put the premises in proper condition so as to comply with the requirements of applicable ordinances and state laws, at the cost and expense of the owner or lessor. The governing body may, by such resolution, also authorize the expenditure of municipal funds and fix the amount thereof to be used for such purpose and charge the same against the premises, and the amount thereof as determined by the governing body shall be a lien against the premises and collectible as provided in this chapter.

§ 213-6. Appointment of custodian; powers.

Whenever a resolution shall have been adopted pursuant to the authority granted in § 213-5B of this chapter, the governing body may appoint a custodian of any such building or structure on behalf of the Township of Montclair, who may be an officer of the township or any other person specially designated to enter into and take charge of the premises and supervise the abatement of the nuisance, the correction

of the defect or defects or the maintenance of the premises in a proper condition so as to conform to the requirements of applicable ordinances and state laws. All costs and expenses of the custodian shall be charged against the premises and collectible as provided in this chapter.

§ 213-7. Lien for costs.

The person or persons authorized to undertake the abatement of the nuisance, the correction of the defect or defects or the maintenance of the premises in a proper condition so as to conform to the requirements of applicable ordinances and state laws shall keep an accurate account of the cost and expenses thereof and, upon completion of the work, shall certify a detailed statement of all of said costs and expenses to the governing body. The governing body shall thereupon examine the statement and, after hearing upon notice to the owner or lessor, may adopt and confirm the same with or without alterations and shall cause the cost to be charged against the premises. The amount so charged shall forthwith become a lien upon such premises and shall be added to and become and form a part of the taxes next to be assessed and levied upon such premises. Such amount shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 213-8. Appointment of receiver of rents and income.

In the event that the owner of a building or structure shall violate any of the provisions of this chapter or shall fail to abate a condition harmful to the health and safety of the occupants of the building or structure and the general public in the Township of Montclair after notice and opportunity so to do, the Inspector of Buildings may, by and with the approval of the governing body, bring an action in the Superior Court to be appointed receiver ex officio of the rents and income of such real property for the purpose of collecting the rents and income from such property and expend the same for the purpose of abating said conditions. The said rents and income so collected by the said receiver shall also be available for the payment of such costs and expenses of the receivership as may be adjudged by the Court and for the payment to the Township of Montclair of any fines or penalties which may have been imposed on the owner for violations of this chapter and which have not been paid.

§ 213-9. Appointment of receiver's agent.

Upon his or her appointment, the receiver, by and with the approval of the governing body in all cases where the real property in question is encumbered by a first mortgage, shall appoint such first mortgagee, if such mortgagee is a proper person and is willing to accept such appointment, as the receiver's agent to collect the rents and income from such real property and manage the same. In all other cases, the receiver, by and with the approval of the governing body, may designate the person in charge or management of such real property or some other competent person as the receiver's agent to collect the rents and income from such real property and manage the same, which mortgagee or other person shall account promptly to the receiver for the rents and income collected; provided, however, that if the mortgagee or other person so designated is derelict in collecting or accounting for such rents and income or in the management of such real property, the receiver shall apply to the Court for the removal of such designated mortgagee or other person, upon notice in writing to him or her, and the Court, upon removing such designated mortgagee or other person, in its discretion, may designate another person to collect the rents and income from such real property and manage the same and account to the receiver for the rents and income of such real property as aforesaid.

§ 213-10. Certificate of habitability. [Added 6-7-1983 by Ord. No. 83-26; amended 5-23-2000 by Ord. No. 00-19]

- A. It shall be unlawful for any property owner, landlord or tenant to rent or lease and deliver up for human occupancy any dwelling unit until a certificate of habitability shall have been issued by the Housing Officer indicating that such dwelling unit is not in violation of the Housing, Building, Fire or Health Codes of the Township of Montclair¹⁰⁸ or any other code, ordinance or statute relating to the safety and habitability of dwelling units. A certificate of habitability shall be required for each separate dwelling unit within a building.
- B. It shall be unlawful for any person to occupy a dwelling unit as herein defined until and unless a certificate of habitability has been issued in accordance with the provisions of this chapter.
- C. For the purpose of this chapter, a dwelling unit shall be defined as any room or rooms or suite or apartment, contained in a portion of a building, which is intended, arranged or designed to be occupied for sleeping or dwelling purposes by one or more persons.
- D. The provisions of this chapter shall not apply to motels, hotels, single-family homes or buildings containing two dwelling units or less or to owner-occupied buildings containing four dwelling units or less.
- E. It shall be the duty of the Housing Officer to inspect, or cause to be inspected, any dwelling unit within five business days after written request by the owner, landlord or tenant who is providing the subject property for human habitation or by the prospective occupant of the dwelling unit.
- F. If the Housing Officer finds, after inspection, that the subject dwelling unit is free of violations, he or she shall issue a certificate of habitability to the applicant no later than five business days after the completion of the inspection.
- G. If the Housing Officer finds, after inspection, that the subject dwelling unit has violations, he or she shall issue a full list of such violations to the applicant within five business days after the completion of the inspection. A certificate of habitability shall not be issued until such time as all violations have been eliminated except as provided in Subsection H.
- H. If, in the judgment of the Housing Officer, the violations are of a minor nature and do not constitute a threat to the health and safety of inhabitants of the subject dwelling unit, he or she may issue a temporary certificate of habitability which shall be valid for 30 days. This certificate may be extended by the Housing Officer for an additional 15 days. A certificate of habitability shall be issued after elimination of the violations.
- I. A certificate of habitability shall be valid for a period of one year, regardless of the number of tenancies, or until such time as the dwelling unit has been vacated after continuous occupancy by the same tenant, whichever is longer.
- J. The Housing Officer may revoke a certificate of habitability or a temporary certificate of habitability at any time if violations occur in the subject dwelling unit.
- K. The Housing Officer may inspect any dwelling unit during the period that a certificate of habitability or a temporary certificate of habitability is valid.
- L. The fee for the issuance of a certificate of habitability or a temporary certificate of habitability shall be \$60, of which \$42 shall be paid by the lessor and \$18 shall be paid by the lessee. The first compliance inspection shall be without charge, and additional compliance inspections shall be at a

108. Editor's Note: See Ch. 121, Construction Codes, Uniform; Ch. 153, Fire Prevention, Ch. 157, Fire Safety Act Enforcement; Ch. 186, Health Standards; and Ch. 190, Housing.

charge of \$30 each to the lessor. **[Amended 6-13-2006 by Ord. No. 06-21; 6-14-2011 by Ord. No. O-11-35]**

- M. The provisions herein shall apply only to tenancies and occupancies in dwelling units created after the effective date of this chapter.
- N. The following notice shall be conspicuously posted, in typewritten or printed form, in capital letters, in the lobby or common area of a building containing dwelling units subject to the provisions of this chapter, and individual copies of this subsection shall be given to all new tenants no later than the first day of their occupancy: **[Amended 7-22-1986 by Ord. No. 86-36]**

A DWELLING UNIT IN THIS BUILDING MAY NOT BE OCCUPIED UNLESS AND UNTIL A CERTIFICATE OF HABITABILITY HAS FIRST BEEN OBTAINED FROM THE HOUSING OFFICER OF THE TOWNSHIP OF MONTCLAIR. THE LANDLORD AND TENANT ARE BOTH SUBJECT TO PENALTIES PROVIDED BY LAW IF A DWELLING IS OCCUPIED WITHOUT THIS CERTIFICATE.

TENANTS ARE REQUIRED TO COMPLY WITH THE PROVISIONS OF CHAPTER 292 REGARDING REFUSE COLLECTION AND RECYCLING. THE LANDLORD IS REQUIRED TO DISTRIBUTE THE MUNICIPAL BROCHURES OR COPIES THEREOF TO ALL NEW TENANTS NO LATER THAN THE FIRST DAY OF THEIR OCCUPANCY.

THE PROVISIONS OF THIS ORDINANCE (CHAPTER 213) SHALL APPLY ONLY TO TENANCIES IN DWELLING UNITS CREATED AFTER JUNE 28, 1983.

§ 213-11. 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.

Chapter 212**MONTCLAIR TRUST ACT**

[HISTORY: Adopted by the Township Council of the Township of Montclair 4-21-2026 by Ord. No. O-26-11. Amendments noted where applicable.]

§ 212-1. Purpose and intent.

- A. This chapter governs the conduct of Township administrative departments, boards, committees, commissions, volunteers and employee and regulates the permitted use of Township property and resources. It shall not be interpreted to interfere with lawful federal or State criminal law enforcement activities, or to prohibit Township's departments and employees from complying with lawful federal or State requirements concerning the provision of information regarding citizenship or immigration status.

§ 212-2. Definitions.

CIVIL IMMIGRATION ENFORCEMENT OPERATIONS — Means any operation that has as one of its objectives the identification, transfer, or apprehension of a person or persons in order to investigate them for a violation of civil immigration laws, subject them to civil immigration detention, removal proceedings and/or removal from the United States.

JUDICIAL ORDER — Means an order issued by a federal Article III judge, or magistrate judge, or the State equivalent.

JUDICIAL WARRANT — Means a warrant based on probable cause and issued by a federal Article III judge or magistrate judge, or the State equivalent. A warrant signed by an immigration judge is not a Judicial Warrant.

§ 212-3. Civil immigration enforcement operations; federal responsibility.

- A. The Township of Montclair, its administrative departments, boards, committees, commissions, volunteers and employees shall not expend any time, funds, or resources on facilitating Civil Immigration Enforcement Operations, nor participating in Civil Immigration Enforcement Operations, except where legally required to do so by a validly issued State or federal law, regulation, subpoena, Judicial Warrant or Judicial Order.
- B. Specifically, except when authorized by a Judicial Warrant or Judicial Order issued by a competent court with jurisdiction over citizens of the State of New Jersey, Montclair Township administrative departments, boards, committees, commissions, volunteers and employees shall not, in the course of performing their municipal duties:
- (1) Enter into, renew or re-authorize any contract, agreement or arrangement with the Attorney General of the United States Government, the United States Department of Homeland Security (DHS), or any other federal agency that would grant federal immigration authority or powers to the Township, its administrative departments, or employees, including but not limited to agreements created under 8 U.S.C. § 1357(g).
 - (2) Enter into, renew or re-authorize any contract, agreement, or arrangement to detain individuals in deportation proceedings, including but not limited to intergovernmental shared service agreements relating to the enforcement of federal immigration laws.

- (3) Honor immigration detainer requests or the United States Immigration and Customs Enforcement Agency (ICE) or United States Customs and Border Control (CPB) or United States Citizenship and Immigration Service (USCIS) Administrative Warrants, or hold any person upon receipt of a detainer request or ICE/CBP/USCIS Administrative Warrant, unless such request or warrant is a valid and properly issued Judicial Warrant or Judicial Order.
 - (4) Participate jointly in, cooperate with, or otherwise assist in any Civil Immigration Enforcement Operations, including but not limited to any immigration enforcement raids, investigations, interrogations, apprehensions, detentions, removals, transfers, or requests to establish traffic perimeters. Any such request for cooperation from ICE/CBP/USCIS officers absent a Judicial Warrant or Judicial Order should be referred to the Township Manager's office, who shall review with the Chief of Police and Township Attorney before denying the request.
 - (5) Except as required by 8 U.S.C. § 1373 or 8 U.S.C. § 1644, respond to any request to communicate the immigration status of any individual, including the reporting that any particular individual who the individual learns as part of his or her job duties for the Township is not lawfully present in the United States.
- C. Any person whose conduct is governed by this chapter who becomes aware of any of the above requests is directed to report those requests to the Township Manager.

§ 212-4. Regulation of Township property.

- A. The Township retains the authority to regulate, manage, and control the use of Township-owned buildings, facilities, vehicles, equipment, parks, parking areas, public libraries, and other Township property. As such, Township property is prohibited from and shall not be used by the United States Attorney General, or DHS, or ICE, or CPB or UCIS, or any other similar law enforcement agency, as a staging location, processing site, or operational base for the purpose of facilitating federal Civil Immigration Enforcement Operations.

§ 212-5. Access to non-public areas of Township property and databases.

- A. No Township department, boards, committees, commissions, volunteers or employee shall permit or consent to federal immigration officers entering, accessing, or using non-public areas of Township property for the purpose of facilitating federal enforcement of Civil Immigration Enforcement Operations absent a valid and properly issued Judicial Warrant specifying the information or individual sought.
- (1) For purposes of this chapter, non-public areas shall include employee offices, restricted administrative areas, record storage locations, secured service areas, and other parts of municipal facilities not open to the general public.
 - (2) The Township Manager shall review Township facilities and ensure the non-public areas are reasonably identified and that such designations are communicated to Township staff.
 - (3) Any ICE or CPB or USCIS or similar agency officer seeking access to non-public areas of Township properties with a validly issued Judicial Warrant or Order shall be required to provide official government identification and state their agency affiliation prior to entry. This requirement is intended to ensure appropriate building security and documentation of access to restricted Township facilities.
 - (4) No Township administrative department, boards, committees, commissions, volunteers or

employee shall voluntarily and without authorization from the Township Manager permit or consent to federal immigration officers using or accessing Township employees and databases for the purpose of facilitating federal enforcement of civil immigration law, absent a valid and properly-issued Judicial Warrant specifying the information or individual sought.

- (5) Any attempts or requests for use or access by ICE or CPB or USCIS to such employees, facilities, property, equipment, or databases or non-public areas shall be immediately reported to the Township Manager who will communicate with the department director that controls the pertinent resource, facility, property, database or equipment. Access to any such employee, facility, property, equipment, or database shall not be permitted without the express, written or verbal approval of the Township Manager, in consultation with the Township Attorney. Should the Township Manager approve access, such access shall be limited in scope and time to the parameters and targets prescribed in the valid and properly issued Judicial Warrant.

§ 212-6. Requesting information; compliance with federal and state law.

- A. No Township administrative department, boards, committees, commissions, volunteers or employee shall ask any individual, resident or person, or request information from any individual, resident or person about the citizenship or the legal immigration status of any person, unless such inquiry is required by State law, regulation, or directive, or by federal law or regulation.

§ 212-7. Documentation and administrative review.

- A. Any request made by ICE or CPB or USCIS or similar enforcement agency seeking use of or access to Township property, facilities, or resources for federal civil immigration enforcement purposes shall be documented and reviewed by the Township Manager and/or Township Attorney. The Township Manager may establish internal procedures to ensure such requests are consistently documented.
- B. The Township Manager (or designee) shall upon request of the Township Council provide quarterly reports to the Township Council, summarizing requests made by ICE or CPB or USCIS or similar law enforcement agencies to Township administrative departments, boards, committees, commissions, volunteers, or employees seeking use of Township property or access to non-public municipal Township facilities and resources for federal civil immigration enforcement. The reports shall be informational in nature and shall not require disclosure of any confidential information or records that are exempt from disclosure under applicable law. If there have been no such requests, the report should indicate there were no requests.

Chapter 217**NOISE**

[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 Art. III of Ch. 166 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. 71.

Noise associated with filming — See Ch. 140.

Disorderly conduct — See Ch. 127.

Nuisances — See Ch. 218.

§ 217-1. Declaration of nuisance.

It is hereby declared to be a nuisance, and it shall be unlawful, for any person to make or cause or suffer or permit to be made or caused, upon any premises owned, occupied or controlled by him or her or upon any public street, alley or thoroughfare in the Township any unnecessary noises or sounds by means of the human voice or by any other means or methods which are physically annoying to persons or which are so harsh or so prolonged or unnatural or unusual in their use, time and place as to occasion physical discomfort or which are injurious to the lives, health, peace and comfort of the inhabitants of the Township or any number thereof.

§ 217-2. Radios, phonographs and musical instruments.

It shall be unlawful for any person to play, use or operate or permit to be played, used or operated any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound with louder volume than is necessary for convenient hearing of the person so playing, using or operating such instrument or device and such persons who are voluntary listeners thereto. Nothing herein contained shall be construed to prohibit playing by a band or orchestra in a hall, building or in the open air.

§ 217-3. Sound amplifiers.

It shall be unlawful for any person, for advertising purposes or for the purpose of attracting the attention of the passing public, to play, use or operate or permit to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound on the streets or public places of the Township or in any place where the sound therefrom is cast directly upon the streets or public places or which is so placed and operated that the sound therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place or of persons in neighboring premises.

§ 217-4. Sound trucks; calliopes.

It shall be unlawful for any person to play, use or operate for advertising purposes or for any other purpose whatsoever, on or upon the public streets, alleys or thoroughfares in the Township, any device known as a "sound truck," "loudspeaker" or "sound amplifier," or radio or phonograph with a loudspeaker or sound amplifier, or any other instrument known as a "calliope," or any instrument of any kind or character which

emits therefrom loud and raucous noises and is attached to and upon any vehicle operating or standing upon said streets or public places aforementioned.

§ 217-5. Horns or signal devices.

Between the hours of 7:00 p.m. and 7:00 a.m., prevailing time, it shall be unlawful for any person to sound any horn or signal device on any vehicle at any street intersection within the Township where there is a traffic light signal, except in the case of an emergency, or for a railroad company to sound any horn or whistle between such hours at any railroad grade crossing within the Township where there are crossing gates.

§ 217-6. (Reserved)¹⁰⁹

§ 217-7. Construction activities or repairing of buildings. [Added 3-18-2003 by Ord. No. 03-17¹¹⁰]

The erection (including excavating), demolition, alteration or repair of any building. No construction activities shall take place at any time other than the following: On weekdays (Monday through Friday) between the hours of 7:00 a.m. and 6:00 p.m. (including set up at the site), and on Saturday and Sunday from 9:00 a.m. to 4:00 p.m.

A. Exceptions.

- (1) Homeowner. Construction activities by a property owner on his own property, provided that such construction activity is not carried on for profit or livelihood and is not performed by a paid contractor, may be carried on any day between the hours of 7:00 a.m. and 9:00 p.m., provided that the same shall be done without undue noise or disturbance and shall not cause a nuisance or disturb the peace and quiet of the neighborhood.
- (2) Necessity. Notwithstanding the foregoing, said construction activities or repairs may occur at other times only in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Construction Official, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Construction Official should determine that the public health and safety will not be impaired by the erection, demolition or repair of any building or the excavation of streets and highways between the hours of 6:00 p.m. and 7:00 a.m. and if he shall further determine that loss or inconvenience would result to any party or interest, including the Township of Montclair, he may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m. upon applications being made at the time the permit for the work is awarded or during the progress of the work.

B. Emergencies. The Emergency Management Coordinator is authorized to suspend any one or more of the provisions of this section for a period of 24 hours or more whenever such Coordinator determines that an emergency situation exists, or in the interest of public health or safety, in the Township. Such suspension may be renewed each day during the continuance of such emergency.

C. Enforcement. The foregoing shall be enforced by the Police Department.

§ 217-8. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No.

109.Editor's Note: Former § 217-6, Internal combustion leafblowers, was repealed 8-15-2023 by Ord. No. O-23-31.

110.Editor's Note: This ordinance also provided for the redesignation of former § 217-7, Violations and penalties, as § 217-8, Violations and penalties.

07-17; 2-16-2021 by Ord. No. O-21-01]

- A. 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.
- B. Any person who violates any provision of § 217-6 of this chapter shall, upon conviction thereof, be punished by a fine of not less than \$100.

NUISANCES

Chapter 218

NUISANCES

[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Animal raising as a nuisance — See Ch. 82, Art. IV.

Head shops — See Ch. 170, Art. II.

Injurious plant growth — See Ch. 100, Art. II.

Health standards — See Ch. 186.

Unfit buildings — See Ch. 108.

Multifamily buildings — See Ch. 213.

Open burning — See Ch. 153.

Property maintenance — See Ch. 247.

ARTICLE I

Public Health Nuisances**[Adopted 5-23-2000 by Ord. No. 00-19]****§ 218-1. Adoption of standards by reference.**

A code defining and prohibiting certain matters, things, conditions or acts and each of them as a nuisance, prohibiting certain noises or sounds, requiring the proper heating of apartments, prohibiting spitting in or upon public buildings, conveyances or sidewalks, authorizing the inspection of premises by an enforcing official, providing for the removal or abatement of certain nuisances and recovery of expenses incurred by the Council in removing or abating such nuisances and prescribing penalties for violations is hereby established pursuant to N.J.S.A. 26:3-69.2. A copy of said code is annexed hereto and made a part hereof without the inclusion of the text thereof herein.

§ 218-2. Title.

The code established and adopted by this article is described and commonly known as the "Public Health Nuisance Code of New Jersey (1953)."

§ 218-3. Copies on file.

Three copies of said Public Health Nuisance Code of New Jersey have been placed on file in the office of the Municipal Clerk upon the introduction of this article and will remain on file there for use and examination of the public.

§ 218-4. Violations and penalties. [Amended 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

ARTICLE II

Chronic Nuisance Properties
[Adopted 7-16-2013 by Ord. No. O-13-33]**§ 218-5. Definitions.**

For the purpose of this article, the following words or phrases shall have the meaning prescribed below:

ABATE — To repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation of this ordinance to the extent necessary in the interest of general health, safety and welfare of the community.

ABATEMENT PLAN — A plan, developed by the property owner in cooperation with the Police Department, outlining the steps the property owner will take to abate the nuisance violations.

CHRONIC NUISANCE PROPERTY — Property on which any combination of three or more nuisance activities has occurred in a calendar year.

NUISANCE ACTIVITIES — A violation of Title 2C, the New Jersey Criminal Code of Justice, and/or municipal ordinances.

§ 218-6. Notice required; contents.

- A. Whenever the Chief of Police determines that three or more nuisance activities have occurred at the premises during a twelve-month period, the Chief may notify the premises' owner in writing. In determining the requisite number of nuisance activities, the Chief may count separate qualifying activities occurring on the same day (as long as they are distinct in time). Nuisance activities reported by the owner shall not be counted toward the requisite number of nuisance activities.
- B. The notice shall contain:
 - (1) The street address or legal description sufficient to identify the premises.
 - (2) A description of the nuisance activities that occurred on the premises.
 - (3) A notice of appeal rights of the owner.
 - (4) A copy of the Nuisance Premises Ordinance.

§ 218-7. Delivery of notice.

The notice shall be deemed to be properly delivered if sent either by certified mail to the property owner listed in the Township's tax records or delivered in person to the property owner.

§ 218-8. Abatement plan.

Any owner receiving notice pursuant to this article shall meet with the Chief of Police, or his/her designee, within five business days of receipt of such notice. The parties shall review the problems occurring at the property and develop an abatement plan to end the nuisance activity on the property. The plan shall also specify a name and contact information for a responsible person who can be contacted in the event of further police, fire, or inspection contact.

§ 218-9. Failure to comply; violations and penalties.

Failure by the owner to adhere to the abatement plan shall make the owner subject to fines in the amount as follows: not less than \$500 for each offense. Every day that the violation continues shall constitute a separate and distinct offense.

Chapter 219**LEAF BLOWERS**

[HISTORY: Adopted by the Mayor and Council of the Township of Montclair 8-15-2023 by Ord. No. O-23-31; amended in its entirety 9-26-2023 by Ord. No. O-23-35. Amendments noted where applicable.]

§ 219-1. Purpose and intent.

- A. The Township of Montclair hereby finds that the use of gas-powered leaf blowers impairs the health and social welfare, as well as the peace and quality of life of persons residing and working in Montclair. The purpose of this chapter is to eliminate the adverse impact of such equipment by prohibiting its use within the Township. This chapter shall apply to all properties within the Township whether publicly or privately owned.
- B. The Township further finds that the practice of blowing leaves and other debris for property maintenance has unintended environmental and health consequences. The blowing of leaves, dust and debris, causes fine particulate emissions and disruption to pollinator habitats. Exposure to fine particulate matter may impact workers using this equipment, those living with respiratory conditions, children, as well as others, and the Township encourages community education regarding alternatives to such use, where possible. It shall be the policy of the Township to balance leaf blowing with mulching fallen leaves into grassy areas and moving leaves into flower beds to be used as organic mulch material.

§ 219-2. Definitions.

The following definitions apply to this chapter:

AIR QUALITY ACTION DAY — An air quality action day is called when the ozone and/or particulate matter forecasts reach an Air Quality Index (AQI) of orange (unhealthy for sensitive groups), red (unhealthy), or maroon (very unhealthy).

ELECTRIC-POWERED LEAF BLOWER — A leaf blower that is powered solely by an electric motor, whether using a battery or a cord.

GAS-POWERED LEAF BLOWER — A leaf blower that is powered by an engine using gasoline or a mixture of gasoline and oil blend as fuel. An electric-powered leaf blower that is plugged into an operating generator that is powered by an engine using gasoline or a mixture of gasoline and oil blend as fuel shall be deemed a gas-powered leaf blower.

LEAF BLOWER — A device that is commonly or primarily used, designed or operated to produce a current of air for the purpose of pushing, propelling or blowing leaves, dirt, gardening or grass clippings and cuttings, refuse, debris, chemical mists, pesticides, or other similar material, whether portable and carried, or walked behind, or attached to a tractor or similar machine.

§ 219-3. Limitation on use of leaf blowers.

- A. Gas-powered leaf blowers are not permitted to be used within the Township of Montclair, effective October 15, 2023.
- B. Electric leaf blowers shall be permitted throughout the year, subject to the following conditions:
 - (1) Air quality action days. Notwithstanding the aforementioned, leaf blowers shall not be operated

§ 219-3

LEAF BLOWERS

in the Township of Montclair on dates designated as "air quality action days" by the New Jersey Department of Environmental Protection and declared by the Township's Emergency Management Coordinator.

- (2) No gas or diesel generators may be utilized to power any electric leaf blowers at any time.

C. Hours of use.

- (1) On weekdays between 9:00 a.m. and 6:00 p.m., except that leaf blowers may be used by an occupant or owner of the premises between 9:00 a.m. and 8:00 p.m.
- (2) On weekends between 10:00 a.m. and 6:00 p.m., except that leaf blowers may be used by an occupant or owner of the premises between 10:00 a.m. and 8:00 p.m.

§ 219-4. Safety equipment.

Business operators shall provide their employees using leaf blowers with appropriate equipment to protect employees' health. Business operators shall further ensure that employees use appropriate personal protective equipment while operating leaf blowers.

§ 219-5. Emergencies.

The Emergency Management Coordinator is authorized to suspend any one or more of the provisions of this chapter for a period of 24 hours or more whenever such Coordinator determines that an emergency situation exists in the Township. Such suspension may be renewed each day during the continuance of such emergency.

§ 219-6. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine of up to \$250 for the first offense, up to \$500 for the second offense, and up to \$1,000 for a third or subsequent offense.

§ 219-7. Severability.

The provisions of this chapter shall be severable. In the event that any portion of this chapter is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the chapter actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

§ 219-8. Repealer.

Any ordinance or part of an ordinance inconsistent with this chapter is hereby repealed.

MONTCLAIR CODE

Chapter 220

OBSCENE MATERIAL

[HISTORY: Adopted by the Council of the Township of Montclair 12-9-2003 by Ord. No. 03-77.

Amendments noted where applicable.]

§ 220-1. Display prohibited.

It shall be unlawful and a petty disorderly persons offense for a retailer to display or permit to be displayed in the window of his/her business premises any obscene material or obscene film, as defined in N.J.S.A. 2C:34-3, at a height of less than five feet and without a blinder or other covering placed or printed on the front of the material displayed.

§ 220-2. Display to constitute presumptive evidence.

Public display of the obscene material or obscene film shall constitute presumptive evidence that the retailer knowingly made or permitted the display.

§ 220-3. Violations and penalties. [Amended 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.

Chapter 222**PARADES AND PROCESSIONS**

[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. 158 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. 127.

Vehicles and traffic — See Ch. 327.

§ 222-1. Definitions.

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

CHIEF OF POLICE — The Chief of Police of the Township of Montclair.

DIRECTOR — The Director of the Department of Public Safety of the Township of Montclair.

PARADE — Any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the Township of Montclair. "Parade," as used herein shall also be deemed to include block parties wherein public streets are closed off to allow residents to congregate upon the public way for neighborhood and community purposes.**[Amended 7-31-1984 by Ord. No. 84-28]**

PARADE PERMIT — A permit as required by this chapter.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

§ 222-2. Permit required; exceptions.

- A. No person shall engage in, participate in, aid, form or start any parade unless a parade permit shall have been obtained from the Director of the Department of Public Safety.
- B. This chapter shall not apply to:
 - (1) Funeral processions.
 - (2) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities.
 - (3) A governmental agency acting within the scope of its functions.

§ 222-3. Application for permit.

- A. A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer.
- B. An application for a parade permit shall be filed with the Chief of Police not less than seven nor more than 30 days before the date on which it is proposed to conduct the parade.

C. The application for a parade permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct such parade.
- (2) If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.
- (3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct.
- (4) The date when the parade is to be conducted.
- (5) The route to be traveled, the starting point and the termination point.
- (6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals and description of the vehicles.
- (7) The hours when such parade will start and terminate.
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.
- (9) The location by streets of any assembly areas for such parade.
- (10) The time at which units of the parade will begin to assemble at any such assembly area or areas.
- (11) The interval of space to be maintained between units of such parade.
- (12) If the parade is designed to be held by and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his or her behalf.
- (13) Any additional information which the Director shall find reasonably necessary to a fair determination as to whether a permit should issue.

D. If the parade will use or traverse any state or county road or highway within the Township of Montclair, the application shall be accompanied by a written consent or other written authorization to hold such parade on the date and at the time requested, issued by the public agency or body having jurisdiction and control over said road or highway.

E. The Director, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than seven days before the date such parade is proposed to be conducted.

§ 222-4. Conditions for issuance of permit.

The Director shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- B. The conduct of the parade will not require the diversion of so great a number of police officers of the Township to properly police the line of movement and the areas contiguous thereto as to prevent

normal police protection to the Township.

- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Township other than those to be occupied by the proposed line of march and areas contiguous thereto.
- D. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.
- E. The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire.
- F. The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.¹¹¹
- G. The parade is scheduled to move from point of origin to its point of termination expeditiously and without unreasonable delays en route.
- H. The parade is not to be held for the sole purpose of advertising any product, goods or event and is not designed to be held purely for private profit.

§ 222-5. Disapproval of application.

If the application shall be disapproved, the Director shall give written notice thereof to the applicant, by mail, setting forth the reasons for the denial of the permit.

§ 222-6. Appeals.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the Township Council. The appeal shall be taken within five days after notice of the denial.

§ 222-7. Alternate parade permits.

The Director, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Chief of Police at least two days prior to the date when the parade is to be conducted. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this chapter.

§ 222-8. Persons to be notified of parade.

Immediately upon the issuance of a parade permit, notice thereof shall be forwarded by the Chief of Police to the following:

- A. The Mayor.
- B. The Township Attorney.
- C. The Fire Chief.

¹¹¹Editor's Note: See Ch. 127, Disorderly conduct.

- D. The Director of Community Services. **[Amended 6-15-2004 by Ord. No. 04-34]**
- E. The general manager or responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

§ 222-9. Contents of permit.

Each parade permit shall state the following information:

- A. Starting time.
- B. Minimum speed.
- C. Maximum speed.
- D. Maximum interval of space to be maintained between the units of the parade.
- E. The portions of the streets to be traversed that may be occupied by the parade.
- F. The maximum length of the parade in miles or fractions thereof.
- G. Such other information as the Director shall find necessary to the enforcement of this chapter.

§ 222-10. Compliance with conditions; possession of permit.

- A. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- B. The parade chairperson or other person heading or leading such activity shall carry the parade permit upon his or her person during the conduct of the parade.

§ 222-11. Hampering or obstructing parade.

- A. No person shall unreasonably hamper, obstruct, impede or interfere with any lawful parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- B. No driver of a vehicle shall drive between the vehicles or persons comprising a lawful parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- C. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this chapter.¹¹²

§ 222-12. Revocation of permit.

The Director shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth. The person to whom the permit has been issued shall be granted a hearing by the Director upon request of said person.

§ 222-13. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No.

¹¹².Editor's Note: See Ch. 327, Vehicles and Traffic.

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.

MONTCLAIR CODE

Chapter 228

PARKING

[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Parking Restrictions for Montclair High School Area**[Adopted 10-5-2004 by Ord. No. 04-54; amended in its entirety 8-21-2007 by Ord. No. 07-38]****§ 228-1. Two-hour restricted parking.**

- A. Except for vehicles displaying valid Board of Education permits issued pursuant to § 228-2 below, no person shall park a vehicle for longer than two hours upon any of the following posted streets on weekdays between the hours of 7:00 a.m. and 4:00 p.m.:

Name of Street	Side	Location
Chestnut Street	Both	Between Midland Avenue and Central Avenue
Chestnut Street	Both	Between North Fullerton and Park Street
James Street	North	Between Midland Avenue and Central Avenue
James Street	North	Between Park Street and Midland Avenue
Midland Avenue	Both	From a point 370 feet from the northerly curbline of Chestnut Street to Brunswick Road
Midland Avenue	Both	Between Chestnut Street and James Street
North Fullerton	East	Between Chestnut Street and Fessler Place
Park Street	Both	Between Chestnut Street and James Street

- B. All other ordinances regulating parking on the streets listed in Subsection A shall apply except during the days and hours specified herein.
- C. Any person violating any of the above provisions of this section shall, upon conviction thereof, be subject to a fine and other penalties in accordance with the violation and penalties section of Chapter 327 of the Township Code.

§ 228-2. On-street permit parking for Board of Education employees.

- A. Notwithstanding the provisions of § 228-1, any vehicle displaying a valid Board of Education parking permit issued in accordance with this article shall be entitled to park on the streets listed in § 228-1A between the hours of 7:00 a.m. and 4:00 p.m. on any weekday when Montclair High School is open.
- B. The Township is hereby authorized to issue parking permits to full-time employees of the Montclair Board of Education, at no cost, in accordance with regulations adopted and administered by the Montclair Board of Education. Any vehicle displaying a valid Board of Education parking permit shall be allowed to park in the posted permit parking areas in the locations set forth in § 228-1A on the days and during the hours set forth in Subsection A above. Such parking shall be subject to all general restrictions and regulations of the Township of Montclair and the State of New Jersey.

[Amended 12-18-2012 by Ord. No. O-12-66; 8-28-2018 by Ord. No. O-18-039]

- C. Removal and storage of vehicles; costs for recovery. Any vehicle parked in violation of any of the provisions of this article may be removed by order of the Chief of Police or authorized officer of the Township of Montclair Police Department to a place designated by the Township of Montclair for the storing of said vehicle. Said vehicle shall be impounded and held at said designated storage place until the owner thereof shall pay to the authorized municipal towing operator the cost of vehicle removal and storage for each day or part thereof that said vehicle is impounded.
- D. Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine and other penalties in accordance with the violation and penalties section of Chapter 230 of the Code of the Township of Montclair.

§ 228-3. Four-hour restricted parking.

- A. Except for vehicles displaying valid student parking permits issued pursuant to § 228-4 below, no person shall park a vehicle for longer than four hours upon any of the following streets on weekdays between the hours of 7:00 a.m. and 4:00 p.m.:

Name of Street	Side	Location
Central Avenue	Both	Between James Street and Brunswick Road
Midland Avenue	Both	Between James Street and Walnut Street
Park Street	East	From a point 663 feet north from Chestnut Street to a point 898 point therefrom
Park Street	East	From a point 1,089 feet north from Chestnut Street to Essex Way
Park Street	West	From a point 663 feet north from Chestnut Street to Mid Park Lane

- B. All other ordinances regulating parking on the streets listed in Subsection A shall apply except during the days and hours specified herein.
- C. Any person violating any of the above provisions of this section shall, upon conviction thereof, be subject to a fine and other penalties in accordance with the violation and penalties section of Chapter 327 of the Township Code.

§ 228-4. On-street permit parking for high school students.

- A. Notwithstanding the provisions of § 228-3, any Montclair High School student possessing a valid student parking permit issued in accordance with this article shall be allowed to park in the locations specified in § 228-3A between the hours of 7:00 a.m. and 4:00 p.m. on any weekday when Montclair High School is open.
- B. Student parking permits shall be issued by the Township in accordance with priority lists and other regulations adopted by the Board of Education, upon the completion of a permit application and production of a valid high school student identification card and valid driver's license. Permits shall be issued on a semiannual basis for the following periods and upon payment of the fees set forth

below: **[Amended 12-18-2012 by Ord. No. O-12-66]**

- (1) September through December: \$90.
- (2) January through June: \$90.
- C. All other ordinances regulating parking on the streets listed in Subsection A shall apply except during the days and hours specified herein.
- D. The issuance of any student parking permit shall not constitute a guaranty that a parking space will be available for the designated motor vehicle.
- E. Student parking permits shall be displayed in accordance with written instructions provided by the Township at the time the permit is issued. **[Amended 12-18-2012 by Ord. No. O-12-66]**
- F. Any person violating any of the above provisions of this article shall, upon conviction thereof, be punished by a fine in accordance with the violation and penalties section of Chapter 327 of the Code of the Township of Montclair.¹¹³

113. Editor's Note: Former § 228-5, Delegation of authority to Montclair Parking Authority, which immediately followed this section, was repealed 12-18-2012 by Ord. No. O-12-66. This ordinance also provided that "Any and all authority, duties, powers, responsibilities and discretion delegated or assigned to the Montclair Parking Authority by this chapter shall cease as of the dissolution of the Authority and shall thereafter be exercised by the Township. All permits, decals, and rental or lease agreements for parking spaces duly issued by the Montclair Parking Authority shall continue to be valid until the date of expiration. All provisions of Chapter 228 not expressly modified by this ordinance shall remain in full force and effect except where rendered meaningless by the dissolution of the Montclair Parking Authority."

ARTICLE II
Temporary No-Parking Signs
[Adopted 7-14-2026 by Ord. No. O-26-22]

§ 228-5. Sale and use of temporary no-parking signs.

- A. TNP signs may be purchased for reserved curbside access for commercial vehicles (a vehicle which has up-to-date registration as a commercial vehicle with the New Jersey Motor Vehicle Commission and has license plates which indicate same) or for registered personal vehicles along metered streets and limited time parking spaces, as described in Township Code § 327-36.
- (1) For personal vehicles, the vehicle must be registered with the Parking Utility at the time of purchase by providing vehicle information, including make, model, color, and license plate number at the time of the sign purchase.
 - (2) For commercial vehicles, at a minimum, the name and number of the company and/or licensed contractor will be required to be supplied.
- B. Approved purposes. TNP signs may be purchased for the following purposes:
- (1) Large deliveries using a commercial vehicle 28 feet or larger.
 - (2) Moving with proof of a signed lease or deed of ownership.
 - (3) Dumpsters with proof of a construction permit for work performed by a licensed and bonded contractor.
 - (4) Special events with proof of a parade permit from the Police Chief or special event food vendor permit obtained from the Fire Official or their designee.
 - (5) Television and film with proof of a filming permit from the Township Clerk.
 - (6) Utility companies with proof of a street excavation permit from the Township Engineer.
- C. Prohibited purposes. TNP signs may NOT be sold, resold, transferred, assigned or conveyed to any person or entity other than to whom the signs are issued by the Montclair Parking Utility.
- D. Signage. TNP signs must be purchased at the Montclair Parking Utility as follows:
- (1) For residential moving, dumpsters, block parties, street fairs, parades, organized athletic events (e.g., 5K, 10K, marathons, etc.), and other circumstances as deemed necessary by the Parking Utility Superintendent, Township Manager's Office and/or Police Department (nonmetered locations and metered locations that have a time limit per space and are in wherein residential parking are also permitted): All TNP signs must be purchased no less than 10 days in advance and will be posted by the purchaser 24 hours in advance of the scheduled no-parking designation.
 - (2) A maximum of two temporary no-parking signs may be active per account, per day, by residential contractors, unless otherwise approved by the Parking Utility Superintendent, the Township Manager or their designee.
 - (3) A maximum of three temporary no-parking signs may be active per account, per day, for dumpsters, unless otherwise approved by the Parking Utility Superintendent or their designee.

- (4) For emergencies, public safety, Township construction activity, and other official Township business (nonmetered locations and metered locations where residential parking is also permitted): signs may be posted three days in advance of the scheduled no-parking designation.
- (5) For all metered locations where only meter parking is permitted: must be purchased 24 hours in advance and will be posted by purchaser 24 hours in advance of the scheduled no-parking designations.
- (6) It shall be the responsibility of the individual, business, institution, or agency who purchases temporary no-parking signs to remove the sign within two hours of expiration of the posted date and time on the temporary no-parking signs or upon completion of the purpose of the purchase, whichever is sooner. Any individual, business, institution, or agency found to be in violation of this section and whose sign is removed by the Township shall be subject to an administrative fee of \$45 per sign.
- (7) TNP signs cannot be transferred to any other person nor sold for locations on private property.

E. Hours and pricing.

- (1) Residents, businesses, institutions, or agencies can purchase TNP signs to reserve temporary curbside access for 24-hour increments per day and up to 48 hours, seven days a week according to the following pricing, noting that a minimum of two TNP signs must be purchased at a time:
- (2) Cost: for one sign up to one 24-hour increment, per day: \$50; for each additional sign: \$25.
- (3) Cost of one sign for one additional 24-hour increment, up to 48 hours: \$50; for each additional sign: \$25. Each TNP sign shall cover 20 linear feet of curbside or if space is marked, or one parking space.

§ 228-6. Rates to be adjusted annually.

- A. Temporary no-parking sign fees may be amended on an annual basis as of January 1, 2027, of every year in accordance with the CPI as reported by the United States Bureau of Labor Statistics, or up to 3%, whichever is lower. However, under no circumstances shall temporary no-parking fees decrease from the previous year.
- B. The Parking Utility shall publish updated rates on the Township website and provide notice to the Governing Body no later than 60 days prior to the effective date of each adjustment.
- C. All adjusted rates may be rounded to the nearest whole dollar.

§ 228-7. Issuance of permit.

- A. The Montclair Parking Utility shall receive the application and accept the required fees, and if upon review of the application the same is in compliance with the requirements of this article and any additional regulations as determined by the Mayor and Council shall apply, shall issue the permit in his sole discretion.
- B. No permit shall be issued if, in the sole discretion of the Montclair Parking Utility, same would be contrary to the health, safety, or welfare of the public and/or if the applicant is in violation of any of the Township's laws related to parking and/or valet service.

§ 228-8. Waiver of fees and/or penalties.

- A. TNP sign fees shall be waived by the Township for state or federal registered nonprofit organizations or for approved Township wide special community events organized by noncorporate entities, such as block parties, festivals, parades, organized athletic events (e.g., 5K, 10K, marathons, etc.) and other public events. However, each nonprofit organization shall only be entitled to have the fee waived for signs for no more than two cumulative days per calendar year.

§ 228-9. Tampering of signs.

- A. No individual shall tamper with, manipulate, move, or otherwise alter a posted temporary no-parking sign, except for the purchaser removing the sign as required in Subsection D(6) above. Any individual found to be in violation of this section shall be subject to a penalty of a minimum of \$100 and up to \$2,000 for repeat offenses, as determined by a Municipal Court Judge.
- B. No person shall park within a reserved no parking municipal space with a municipally issued no-parking sign that is plainly visible. The Montclair Parking Utility and/or the Montclair Police Department shall have the authority to tow unauthorized vehicles parked within active temporary no-parking sign zones at the vehicle owner's sole expense.

§ 228-10. Additional regulations.

- A. The Director of Parking for the Montclair Parking Utility and/or the Township Manager or their designee may enact such reasonable regulations, not inconsistent with this article, as necessary for the establishment and enforcement of the purchase and use of TNP signs.

§ 228-11. Enforcement.

- A. The Township Code Enforcement Division are hereby authorized to enforce the provisions of this article, to investigate and to issue a notice of violation seeking penalties as set forth below to any person, owner of property or business who violates the provisions set forth herein, or who causes a metered or limited time parking space to be reserved or occupied with any objects, signs, vehicles without issued pursuant to this article.

§ 228-12. Violations.

- A. Any person violating the provisions of this article shall be subject to punishment by a minimum fine not exceeding \$100 up to \$2,000, or imprisonment for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or by any combination of such fine, imprisonment and/or community service, as determined by the Municipal Court Judge.

MONTCLAIR CODE

Chapter 230

PARKING LOTS

[HISTORY: Adopted by the Board of Commissioners (Arts. I and II), now Township Council (all subsequent articles), of the Township of Montclair as indicated in article histories.¹¹⁴ Amendments noted where applicable.]

GENERAL REFERENCES

Parking enforcement officer — See Ch. 44, Art. VI.

Vehicles and traffic — See Ch. 327.

Parking — See Ch. 228.

114. Editor's Note: The provisions of this chapter (all articles) were also amended 12-18-2012 by Ord. No. O-12-67, to transfer the functions of the Parking Authority, which was dissolved effective 1-1-2013, to the Township. This ordinance also provided that "Any and all authority, duties, powers, responsibilities and discretion delegated or assigned to the Montclair Parking Authority by this chapter shall cease as of the dissolution of the Authority and shall thereafter be exercised by the Township. All designations of permit parking spaces and the terms and conditions regarding the use of such permit parking spaces for all public parking decks and all surface parking lots owned or leased by the Township which have previously been designated or promulgated by the Montclair Parking Authority shall remain in effect after the dissolution of the Montclair Parking Authority. All permits, decals, and rental or lease agreements for parking spaces duly issued by the Montclair Parking Authority shall continue to be valid until the date of expiration. Upon dissolution of the Montclair Parking Authority, the parking fees set forth in the attached Fee Schedule shall become effective. All provisions of Chapter 230 not expressly modified by this ordinance shall remain in full force and effect except where rendered meaningless by the dissolution of the Montclair Parking Authority." The referenced Fee Schedule is on file in the Township offices.

ARTICLE I

Parking Permits

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 161A of the 1979 Code]

§ 230-1. Authorization to designate permit parking areas; schedule. [Amended 9-1-1981 by Ord. No. 81-44; 9-28-1982 by Ord. No. 82-34; 12-18-1984 by Ord. No. 84-49; 8-7-1990 by Ord. No. 90-42; 12-14-1993 by Ord. No. 93-44; 6-15-2004 by Ord. No. 04-34; 2-20-2007 by Ord. No. 07-5; 11-10-2008 by Ord. No. 08-40; 11-17-2014 by Ord. No. O-14-044; 11-12-2025 by Ord. No. O-25-50]

The Township is hereby authorized to designate permit parking spaces, and the terms and conditions regarding the use of such permit parking spaces, for all public parking decks and all surface parking lots owned or leased by the Township. These shall be or remain in effect the existing permit parking designations for each of the public parking lots of the Township of Montclair as are indicated by the Municipal Lot Description Schedule that shall be filed with the Township Clerk and published on the Township's official Internet website.

§ 230-2. Display of decal required in leased parking areas. [Added 10-12-1982 by Ord. No. 82-37; amended 12-14-1993 by Ord. No. 93-44; 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

If the Township has leased a block of parking spaces to any tenant, such tenant must issue decals approved by the Township to the vehicle owners who will be using the leased spaces. Such decals shall be affixed and displayed in accordance with rules and regulations adopted by the Township.

§ 230-3. Number of spaces. [Amended 6-15-2004 by Ord. No. 04-34; 2-20-2007 by Ord. No. 07-5; 8-12-2013 by Ord. No. O-13-42]

The Township, from time to time, shall set aside and designate for each said permit parking area in each of the respective parking lots such number of parking spaces as may be reasonably necessary to accommodate the needs of the public, with due regard for the requirements of the public for metered parking spaces and for recharging of electric vehicles. The Township shall maintain a written schedule of the parking spaces set aside and designated for each permit area in each of the respective parking lots in which such permit area is authorized to be established.

§ 230-3.1. Reserved parking for recharging electric vehicles. [Added 8-12-2013 by Ord. No. O-13-42]

- A. It shall be unlawful for any person to park or leave standing a vehicle in a stall or space designated for the recharging of electric vehicles unless the vehicle is connected for electric charging purposes.
- B. It shall be unlawful for any person to obstruct, block, or otherwise bar access to parking stalls or spaces described in Subsection A except as provided in Subsection A.
- C. Notice of reserved parking for recharging of electric vehicles shall be posted on a sign not less than 17 inches by 22 inches in size with lettering not less than one inch in height that clearly and conspicuously states the following: "Unauthorized vehicles not connected for electric charging purposes may be towed away at owner's expense. Towed vehicles may be reclaimed at designated towing facility or by calling Montclair Police Department - 973-744-1234." The sign shall be posted in both of the following locations:

- (1) Immediately adjacent to, and visible from, the stall or space.

- (2) In a conspicuous place at each entrance to the parking facility.

§ 230-4. (Reserved)¹¹⁵

§ 230-5. Types of parking permits. [Amended 2-1-1983 by Ord. No. 83-4; 5-10-1983 by Ord. No. 83-22; 3-18-1986 by Ord. No. 86-13; 12-14-1993 by Ord. No. 93-44; 2-20-2007 by Ord. No. 07-5; 11-10-2008 by Ord. No. 08-40; 1-6-2009 by Ord. No. 08-48; 11-17-2014 by Ord. No. O-14-044; 9-20-2016 by Ord. No. O-16-038; 11-27-2018 by Ord. No. O-18-044; 11-12-2025 by Ord. No. O-25-50]

Subject to the provisions of § 230-30A, the Township is hereby authorized to issue to persons applying and qualifying therefor the following types of parking permits, and any other types of parking permits which the Township determines to be necessary or appropriate. The list and description of these permits may be found in the Municipal Lot Description Schedule that shall be filed with the Township Clerk and published on the Township's official Internet web site.

§ 230-6. Permit issuance not a guaranty of space. [Amended 12-14-1993 by Ord. No. 93-44; 2-20-2007 by Ord. No. 07-5]

The issuance of any permit hereunder shall not constitute a guaranty to the person to whom issued that a space will be available for the parking of the designated motor vehicle.

§ 230-7. Duration of permits. [Amended 12-12-1989 by Ord. No. 89-48; 12-14-1993 by Ord. No. 93-44; 5-23-2000 by Ord. No. 00-19; 2-20-2007 by Ord. No. 07-5]

Permits may be issued for such periods, and upon such terms and conditions, as determined by the Township.

§ 230-8. Permit fees. [Last amended 5-19-2026 by Ord. No. O-26-16]

- A. The fees for the issuance of parking permits on public parking lots may increase annually at the discretion of the Township. The Township shall maintain a current schedule of all permit parking fees, at the Office of the Township Clerk.
- B. Current Schedule of Permit Fees.

- (1) Surface lots.

- (a) Non-commuter surface parking lots monthly permits: \$60 per month.
- (b) Commuter (train) surface parking lots monthly permits: \$70 per month.
- (c) Overnight permits for both on-street parking and surface parking lots: \$50 per month.

- (2) Bay Street Deck.

- (a) 24-hour access monthly permit: \$125 per month.
- (b) NEW Overnight permit: \$65 per month.

- [1] This permit will allow for access from 6:00 p.m. until 7:00 a.m. on weekdays and all day Saturday and Sunday; however, if not out by 7:00 a.m. on weekdays, permit

115.Editor's Note: Former § 230-4, Consecutive numbering, was repealed 11-12-2025 by Ord. No. O-25-50.

holder will be charged \$2 per hour from 7:00 a.m. on to a MAX of \$24 for every 24 hours.

[2] Early bird: Enter between 4:00 a.m. and 10:00 a.m. and leave by 10:00 p.m.: \$8.

[a] If you enter at any other time or leave after 10:00 p.m., the rate charged will be \$2 per hour for the full duration.

(3) Crescent Deck and Midtown Deck.

(a) 24-hour access monthly permit: \$140 per month.

(b) Daytime monthly permit: \$75 per month.

Nighttime monthly permit: \$65 per month.

§ 230-9. Definitions.

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

ELECTRIC VEHICLE — Any car, truck, or other vehicle that does not produce tailpipe or evaporative emissions or is a plug-in hybrid electric vehicle (PHEV). [Added 8-12-2013 by Ord. No. O-13-42]

IN-COMMUTER — A person who is a nonresident of the Township of Montclair but who has a place of business in or who is regularly employed by a business located in the Township of Montclair.

NONRESIDENT — A person not residing or working in Montclair.

RESIDENT — A person residing in the Township of Montclair or a person who does not reside in Montclair but who is the owner of taxable real or personal property in the Township of Montclair.

§ 230-10. Multiple-car permit. [Amended 12-14-1993 by Ord. No. 93-44; 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

In parking decks controlled by access control and upon written application therefor and upon the payment of a reasonable fee established by the Township, a person to whom there has been issued a permit may obtain one transferable permit that will entitle him/her to park passenger vehicles owned by him/her in a permit area.

§ 230-11. Transfer of permit; replacement hangtag for parking deck; fees. [Amended 12-14-1993 by Ord. No. 93-44; 2-20-2007 by Ord. No. 07-5]

- A. Upon written application therefor to the Township and upon the payment of a reasonable fee established by the Township, any permit (other than a loading zone rental permit) may be transferred from one vehicle to another vehicle owned by the same person at any time during the period for which the permit is issued for the balance of the permit period remaining unexpired.
- B. Upon application therefor to the Township and upon the payment of a reasonable fee established by the Township, a replacement hangtag may be issued to any person; provided, however, that such replacement hangtag shall cover only the balance of the period for which the original hangtag was issued.

§ 230-12. Cancellation and refund. [Amended 12-12-1989 by Ord. No. 89-48; 12-8-1992 by Ord. No. 92-56; 5-23-2000 by Ord. No. 00-19; 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

- A. No refunds or exchanges will be accepted for monthly permits once purchased for the current month or renewal period.
- B. No refunds or exchanges will be given for daily or nightly permits once purchase has been finalized.
- C. All cancellations of monthly accounts must be done no later than the 22nd of each month prior for the upcoming month. If done within the renewal period, customer is responsible for payment for upcoming month.
- D. To maintain active parking privileges, the permit holder shall renew their permit on a monthly basis. Failure to remit payment within the prescribed thirty-day renewal period shall result in the forfeiture of the permit holder's right to renew said permit. Upon such forfeiture, the permit holder shall be placed on a waitlist for the applicable permit type, if such a waitlist exists. Prior to placement on the waitlist or reactivation of a permit, should permits be available, the permit holder must satisfy any outstanding balance in full.

§ 230-13. Form and contents of permits [Amended 9-9-2008 by Ord. No. 08-26; 11-12-2025 by Ord. No. O-25-50]

All permits shall be established by the Township, which shall contain all essential information, including, without limitation, the type of permit, the period for which issued, and the registration number/license plate number of the person to whom it is issued.

§ 230-14. Display of permits. [Amended 12-14-1993 by Ord. No. 93-44; 9-9-2008 by Ord. No. 08-26]

Every permit shall be properly displayed by hanging the permit on the motor vehicle's rear-view mirror or, if the hangtag cannot be affixed to the rear-view mirror, in such other manner so that the permit is clearly visible through the front windshield of the motor vehicle. The Township shall provide directions for the display of hangtag permits at the time such permits are issued.

§ 230-14.1. Counterfeit permits, penalty. [Added 7-23-2019 by Ord. No. O-19-023]

- A. It shall be unlawful and a violation of this chapter for a person to copy, produce or otherwise bring into existence a facsimile or counterfeit parking permit or alter an expired parking permit. It shall further be unlawful and violation of this chapter for a person to knowingly use or display an altered, facsimile or counterfeit parking permit in any parking lot or in any parking space in the Township of Montclair.
- B. Any person committing a violation of Subsection A of this section shall be subject to a penalty not less than \$500, and not to exceed \$1,000, and/or imprisonment for not more than 10 days for each such violation. Any such penalties may be imposed by the Municipal Court.

§ 230-15. Permit required in general permit parking areas; hours. [Amended 12-14-1993 by Ord. No. 93-44; 2-20-2007 by Ord. No. 07-5; 1-6-2009 by Ord. No. 08-48; 9-20-2016 by Ord. No. O-16-038; 11-12-2025 by Ord. No. O-25-50]

It shall be unlawful for any person, during the hours established in § 230-5, to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in any permit parking area in any public parking lot of the Township of Montclair without an appropriate permit to said motor vehicle as hereinabove set forth.

§ 230-16. Permit required in rental permit parking areas. [Amended 12-14-1993 by Ord. No. 93-44;

11-12-2025 by Ord. No. O-25-50]

- A. It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked at any time in any rental permit parking space in any public parking lot of the Township of Montclair without an appropriate permit therefor properly affixed to said parking space as hereinabove set forth.
- B. The fees for the issuance of the rental of parking spaces, shall be established by the Township. The Township shall maintain a current schedule of all rental of parking space fees, and copies of said schedule shall be filed with the Township Clerk and published on the Township's official Internet website.

§ 230-17. Permit required in night permit parking areas; hours. [Amended 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

It shall be unlawful for any person to cause, allow, permit or suffer any motor vehicle registered in the name of or operated by such person to be parked in any public parking lot of the Township of Montclair between the hours of 2:00 a.m. and 5:00 a.m. of any day, or during such other hours established by the Township, without an N-night permit therefor associated with said motor vehicle as hereinabove set forth.

§ 230-18. Parking within marked spaces required.

Every motor vehicle parked in any parking space in any public parking lot of the Township of Montclair shall be parked within the space marked upon the pavement for the parking of a single motor vehicle.

§ 230-19. Removal and storage of vehicles; costs for recovery. [Amended 9-9-2003 by Ord. No. 03-64]

Any vehicle parked in violation of any of the provisions of this article may be removed from a public parking lot by order of the Chief of Police or authorized officer of the Township of Montclair Police Department to a place designated by the Township of Montclair for the storing of said vehicle. Said vehicle shall be impounded and held at said designated storage place until the owner thereof shall pay to the authorized municipal towing operator the cost of vehicle removal and storage, for each day or part thereof that said vehicle is impounded.

§ 230-20. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17; 9-20-2016 by Ord. No. O-16-038]

Any person who violates any provision of this article shall, upon conviction thereof, be punished by a fine of \$75 for the first offense, \$100 for the second offense, and a fine not exceeding \$2,000 as determined by the Municipal Court Judge for any subsequent offense. 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.

ARTICLE II

Crescent Deck at Montclair Center**[Adopted 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 161A of the 1979 Code]**

§ 230-21. Establishment of parking fees and hours of operation. [Amended 4-29-1980 by Ord. No. 80-21; 6-27-1989 by Ord. No. 89-29; 6-15-2004 by Ord. No. 04-34; 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

The Township is hereby authorized to establish, operate and maintain permit parking spaces and nonpermit transient parking spaces in the Crescent Deck at Montclair Center and to establish the terms and conditions of all such parking spaces, the days and hours of operation, and the rates and fees to be charged for the use of all parking spaces in the Crescent Deck. The Parking Revenue Equipment shall accept bills and credit cards. Credit cards shall be accepted as swipe magstripe, insert chip reading and touchless payment.

§ 230-22. through § 230-23. (Reserved)¹¹⁶

§ 230-24. Violation parking. [Amended 6-27-1989 by Ord. No. 89-29; 2-20-2007 by Ord. No. 07-5]

No vehicle shall be parked in any parking space between the hours of 8:00 a.m. and 6:00 p.m. of any day other than Sundays and legal holidays, or during such other time periods established by the Township, while or after the parking meter regulating such parking space shows a violation. Each vehicle shall be parked within the parking space marked upon the pavement adjacent to the meter regulating such space.

§ 230-25. (Reserved)¹¹⁷

§ 230-26. (Reserved)¹¹⁸

§ 230-27. Form of Crescent Deck parking permit. [Amended 2-20-2007 by Ord. No. 07-5; 9-9-2008 by Ord. No. 08-26]

- A. All permits for the Crescent Deck shall be in the form of a proximity card or such other form established by the Township.
- B. Upon application therefor and upon the payment of a reasonable fee established by the Township, a replacement proximity card may be issued to any person; provided, however, that such replacement card shall cover only the balance of the period for which the original card was issued.

§ 230-28. Affixing of permit decal. [Amended 12-14-1993 by Ord. No. 93-44]

Every permit shall be affixed as a decalcomania to the motor vehicle for which issued upon the lower right corner of the rear window passenger side in such a manner as to be clearly visible from the exterior of the vehicle. Affixing such decal by the use of adhesive tape or any similar tape or device is prohibited except for multiple-car permits.

§ 230-29. Cancellation and refund. [Amended 12-12-1989 by Ord. No. 89-48; 12-14-1993 by Ord. No. 93-44; 10-10-1996 by Ord. No. 96-33; 5-23-2000 by Ord. No. 00-19; 2-20-2007 by Ord. No. 07-5;

116.Editor's Note: Former §§ 230-22 and 230-23 were repealed 11-12-2025 by Ord. No. O-25-50, as amended.

117.Editor's Note: Former § 230-25, Nighttime parking, was repealed 11-12-2025 by Ord. No. O-25-50, as amended.

118.Editor's Note: Former § 230-26, Types of permits, was repealed 2-20-007 by Ord. No. 07-5.

11-12-2025 by Ord. No. O-25-50]

- A. No refunds will be accepted for permits once purchased for the current month or renewal period.
- B. All cancellations of account must be done no later than the 22nd of each month prior for the upcoming month. If done within the renewal period, customer is responsible for payment for upcoming month.
- C. To maintain valid parking authorization, the permit holder shall renew their permit on a monthly basis. Failure to remit payment within the designated thirty-day renewal period shall result in the forfeiture of the permit holder's right to renew said permit. Upon such forfeiture, the permit holder shall be placed on a waitlist for the applicable permit type, if such a waitlist is established. Prior to placement on the waitlist or reactivation of a permit, where permits are available, the permit holder must fully satisfy any outstanding balance.

§ 230-30. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19]

Any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than \$50 or by imprisonment in the county jail for a period not to exceed 15 days, or by both such fine and imprisonment.¹¹⁹

119.Editor's Note: Former § 230-30.1, Delegation of authority to Parking Authority, added 2-20-2007 by Ord. No. 07-5, was repealed upon dissolution of the Parking Authority. See the footnote at the beginning of this chapter.

ARTICLE III
(Reserved)¹²⁰

§ 230-31. through § 230-36. (Reserved)

120. Editor's Note: Former Art. III, Church Street Parking Lot, adopted 10-5-1992 by Ord. No. 92-42, as amended, was repealed 9-20-2016 by Ord. No. O-16-038.

ARTICLE IV

Lloyd Road Parking Lot**[Adopted 5-9-1995 by Ord. No. 95-22]****§ 230-37. Municipal parking lot established. [Amended 6-15-2004 by Ord. No. 04-34; 2-20-2007 by Ord. No. 07-5]**

The Township is hereby authorized and directed to establish and operate the Lloyd Road Parking Lot as a municipal parking lot in conjunction with the Montclair Kimberley Academy pursuant to an easement agreement between the Township and the Montclair Kimberley Academy.

§ 230-38. Number of spaces; types of permits. [Amended 5-23-2000 by Ord. No. 00-19; 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

- A. The Lloyd Road Parking Lot shall consist of 57 spaces.
- B. Subject to any limitations contained in the easement agreement referred to in § 230-37, the Township shall be entitled to issue permits for, and develop other regulations governing the use of, the five northernmost spaces in the Lloyd Road Parking Lot, on such terms and conditions established by the Township.
- C. From 7:30 a.m. to 5:30 p.m. on weekdays, the remaining 52 spaces shall be for the exclusive use of vehicles with valid decals issued by the Montclair Kimberley Academy. From 2:00 a.m. to 5:00 a.m., these spaces may only be used by vehicles with valid night permits issued by the Township pursuant to § 230-51. The Montclair Police Department and Montclair Parking Utility must be contacted for any overnight exceptions. At all other times, these 52 spaces will be available on a first-come-first-serve basis.

§ 230-39. Overnight parking. [Amended 2-20-2007 by Ord. No. 07-5; 11-12-2025 by Ord. No. O-25-50]

It shall be unlawful for any person to cause, allow or permit any vehicle registered in his or her name or operated by such person to park in the Lloyd Road Parking Lot between the hours of 2:00 a.m. and 5:00 a.m. of any day, or during any other time periods established by the Township, without a valid permit for said vehicle.

§ 230-40. Daytime parking. [Amended 11-10-2008 by Ord. No. 08-40]

It shall be unlawful for any person to cause, allow or permit any vehicle registered in his or her name or operated by such person to park in the Lloyd Road Parking Lot between the hours of 7:30 a.m. and 5:30 p.m. of any day without a valid parking permit issued by the Montclair Kimberley Academy, except in the five northernmost parking spaces regulated by the Township pursuant to § 230-38B. This limited exclusive use is being granted in consideration of the Montclair Kimberly Academy granting an easement to the Township of Montclair of sufficient land owned by it to create the Lloyd Road Parking Lot and its expenditure of money to pave, maintain and provide insurance for the lot as set forth in the easement agreement.

§ 230-41. 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 article 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.

MONTCLAIR CODE

Chapter 234

PARKS AND PLAYGROUNDS

[HISTORY: Adopted by the Board of Commissioners (Arts. I through III), now Township Council (any subsequent articles), as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Community Services — See Ch. 3, Art. XI.

Shade trees — See Ch. 297, Art. I.

ARTICLE I

Park Regulations**[Adopted 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 162 of the 1979 Code]****§ 234-1. Definitions.**

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

DIRECTOR — The Director of Community Services.[Amended 5-23-2000 by Ord. No. 00-19; 6-15-2004 by Ord. No. 04-34]

GROUP — Four or more persons.

PARK — A park, reservation, playground, recreation center or any other area in the Township owned or used by the Township and devoted to active or passive recreation.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

SMOKE — The gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the by-products. The term "smoke" includes, but is not limited to, tobacco smoke, and marijuana smoke.[Added 4-29-2014 by Ord. No. O-14-013]

SMOKING — The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette of any kind; pipe, or any other device which contains tobacco or any other matter that can be smoked.[Added 4-29-2014 by Ord. No. O-14-013]

TOWNSHIP — The Township of Montclair in the County of Essex.

VEHICLE — Any wheeled conveyance, whether motor-powered, animal-drawn or self-propelled. The term shall include any trailer-in-tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the Township parks.

§ 234-2. Regulation of park property. [Amended 6-9-1981 by Ord. No. 81-29; 9-1-1981 by Ord. No. 81-43; 5-9-1995 by Ord. No. 95-19; 4-29-2014 by Ord. No. O-14-013; 6-3-2025 by Ord. No. O-25-18]

No person shall:

A. Buildings and other property.

- (1) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving materials, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (2) Rest rooms and washrooms. Fail to cooperate in maintaining rest rooms and washrooms in a neat and sanitary condition. No person over the age of five years shall use the rest rooms and washrooms designated for the opposite sex.
- (3) Removal of natural resources. Dig or remove any soil, rock, stones, trees, shrubs or plants; down timber or other wood or materials; or make any excavation by tool, equipment, blasting or other means or agency.

- (4) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

B. Trees, shrubbery, lawns.

- (1) Injury and removal. Damage, cut, carve, transplant or remove any tree or plant, or injure the bark or pick the flower or seeds of any tree or plant, or attach any rope, wire or other contrivance to any tree or plant, or dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.
- (2) Climbing trees, etc. Climb any tree, or walk, stand or sit upon monuments, vases, fountains, railing or fences or upon any other property not designated or customarily used for such purposes.
- (3) Hitching of animals. Tie or hitch a horse or other animal to any tree or plant.

C. Wild animals, birds, etc.¹²¹

- (1) Hunting. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird, nor remove or have in possession the young of any wild animal or the eggs or nest or young of any reptile or bird.
- (2) Fishing. Fish in any waters, whether by the use of a hook and line, net, trap or other device.

D. Sanitation.

- (1) Pollution of waters. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.
- (2) Refuse and trash. Dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.¹²²
- (3) Glass. Carry, use or possess any glass bottles or glass containers of any kind.

E. Traffic.¹²³

- (1) Operation confined to roads. Drive any vehicle on any area except the paved park roads or parking areas or such other areas as may on occasion be specifically designated as temporary parking areas by the Director or his or her duly authorized representative.

F. Parking.

- (1) Designated areas. Park a vehicle in other than an established or designated parking area, and

121.Editor's Note: See Ch. 82, Animals, Art. II, Wild or Nondomestic Animals.

122.Editor's Note: See Ch. 292, Solid Waste, Art. IV, Garbage, Rubbish and Refuse.

123.Editor's Note: See Ch. 327, Vehicles and Traffic.

such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present.

G. Recreational activities.

- (1) Bathing and swimming. Swim, bathe or wade in any waters in any park except in such waters and at such places as are provided therefor and in compliance with such regulations as are set forth by the Director or his or her duly authorized representative.
- (2) Boating. Bring into or operate any boat, raft or other watercraft weighing more than five pounds, whether motor-powered or not, upon any waters in any park.

H. Behavior. No person shall:

- (1) Intoxicating beverages; prohibition. No person, business or entity shall bring alcoholic beverages into any park or drink alcoholic beverages at any time in any park.
 - (a) Notwithstanding anything contained herein to the contrary, the Mayor and Council of the Township of Montclair may permit by resolution the distribution and consumption of alcoholic beverages within an enclosed area with a regulated entrance, incidental to the approved use of any of the Township's parks, upon securing any license required by law, including the Alcoholic Beverage Commission.
- (2) Fireworks and explosives. Bring into any park or have in his or her possession or set off or otherwise cause to explode or discharge or burn any firecrackers, torpedo, rocket or other fireworks or explosives of flammable materials, or discharge them or throw them into any such area or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous.
- (3) Domestic animals. Be responsible for the entry of a dog or other domestic animal into any park except when restrained at all times on an adequate leash, or ride a horse in any park except on roadways or other designated areas.¹²⁴
- (4) Alms. Solicit alms or contributions for any purpose, whether public or private.
- (5) Fires. Build or attempt to build a fire, or drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable materials within any park area or on any highway, road or street abutting or contiguous thereto.
- (6) Closed areas. Enter an area posted as "Closed to the Public," or use or abet the use of any area in violation of posted notices.
- (7) Games of chance. Gamble or participate in or abet any game of chance.¹²⁵
- (8) Going onto ice. Go onto the ice on any of the waters except such areas as are designated as skating fields, and then only when safety signals are displayed.
- (9) Loitering and boisterousness. Sleep or protractedly lounge on the seats or benches or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.¹²⁶

¹²⁴.Editor's Note: See Ch. 82, Animals, Art. I, Dogs.

¹²⁵.Editor's Note: See Ch. 166, Games of Chance.

¹²⁶.Editor's Note: See Ch. 127, Disorderly Conduct.

- (10) Exhibit permit. Fail to produce and exhibit any permit from the Director or his or her duly authorized representative he or she claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.
- (11) Interference with permittees. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.
- (12) Smoke:
 - (a) In any public playground, recreation area, or park owned or operated by the Township.
 - (b) On any of the following Township properties including both indoors and outdoors:

647 Bloomfield Avenue

205 Claremont Avenue

219 North Fullerton Avenue

54 Watchung Avenue

I. Merchandising, advertising, etc.¹²⁷

- (1) Vending and peddling. Expose or offer for sale any service article or thing or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, except a sale by a regularly licensed concessionaire acting by and under the authority and regulation of the Director or his or her duly authorized representative or a sale conducted during any parks, recreation and cultural affairs sponsored activity.
- (2) Advertising. Announce, advertise or call public attention in any way to any article or service for sale or hire.
- (3) Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever within any park, or, except pursuant to law or pursuant to a permit duly issued by the Township of Montclair, erect or cause to be erected any sign whatever on any public lands, highways or road adjacent to a park.¹²⁸
- (4) Notwithstanding anything contained herein to the contrary, the Mayor and Council of the Township of Montclair may permit by resolution vending, peddling, advertising, and signs related to the distribution and consumption of alcoholic beverages within an enclosed area with a regulated entrance, incidental to the approved use of any of the Township's parks, upon securing any license required by law, including the Alcoholic Beverage Commission.

§ 234-3. Park operating policy. [Amended 2-7-2012 by Ord. No. O-12-01]

- A. Permits. A permit shall be obtained from the Director or his or her duly authorized representative for all organized sporting events or other group recreational activity.
 - (1) Application. A person seeking issuance of a permit hereunder shall file an application with the Director or his or her duly authorized representative. The application shall state:

¹²⁷.Editor's Note: See Ch. 238, Peddling and Soliciting.

¹²⁸.Editor's Note: See Ch. 178, Handbills and Posters.

- (a) The name and address of the applicant.
 - (b) The name and address of the person, persons, corporation or association sponsoring the activity, if any.
 - (c) The day and hours for which the permit is desired.
 - (d) The park or portion thereof for which such permit is desired.
 - (e) An estimate of the anticipated attendance.
 - (f) Any other information which the Director shall find reasonably necessary to make a fair determination as to whether a permit should be issued hereunder.
- (2) Standards for issuance. The Director or his or her duly authorized representative shall issue a permit if he or she finds:
- (a) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
 - (b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - (c) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.
 - (d) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the Township.
 - (e) That the facilities desired have not been reserved for other use at the day and hour required in the application.
 - (f) That the proposed activity does not cause, suffer, allow or permit any sound production device to cause audible sound that unreasonably disturbs surrounding residential development.
- (3) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances as though the same were inserted in said permits.
- (4) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.
- (5) Revocation. The Director or his or her duly authorized representative shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown. Revocation of a permit may be grounds for denial of future permits.
- B. Enforcement. The Director or his or her duly authorized representative shall, in connection with his or her duties imposed by law, diligently enforce the provisions of this article.
- C. Ejection from park. The Director or his or her duly authorized representative shall have the authority to eject from the park any persons acting in violation of this article.
- D. Seizure of property. The Director or his or her duly authorized representative shall have the authority to seize and confiscate any property, thing or device in the park or used in violation of this article.

§ 234-4. Hours of use. [Added 6-9-1981 by Ord. No. 81-29; amended 5-18-2021 by Ord. No. O-21-11]

- A. No person, except an employee of the Township of Montclair engaged in the performance of his or her duty or a person attending a Township-sponsored event, shall be within a park between the hours of 10:00 p.m. and 6:00 a.m., except under a permit duly issued as provided herein. In addition, Carey's Woods in Nishuane, the Mountainside Nature Center Trail and the Alonzo F. Bonsal Wildlife Preserve shall all close at sundown.
- B. The portion of Rand Park designated as a skate park shall be open for use on all days throughout the entire year between the hours of 9:00 a.m. and 8:00 p.m.

§ 234-5. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17]

- A. Any person who violates any provision of this article 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.
- B. Each incident of smoking in violation of this article is an infraction subject to a fine of \$250 for the first offense and \$500 for each subsequent offense. **[Added 4-29-2014 by Ord. No. O-14-013]**

ARTICLE II

Rents and Fees**[Adopted 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 162 of the 1979 Code]****§ 234-6. Rates for rental of Montclair Clary Anderson Arena. [Amended last 3-28-2017 by Ord. No. O-17-008]**

The following rates are hereby set for the use of the Montclair Clary Anderson Arena:

A. Rental rates for building.

- (1) Lobby: \$150 per hour.
- (2) Party Room: \$100 per hour.

§ 234-7. Fees for recreational programs. [Amended last 3-28-2017 by Ord. No. O-17-008]

A. The following fees shall be paid for participation in recreation programs outlined below, conducted by the Department of Recreation and Cultural Affairs of the Township of Montclair:

Participants	Fee
Youth	
Youth activities	\$75 to \$150
Youth travel leagues	\$150 to \$225
Summer Day Camp	\$190 to \$250 per session
Sports Camp	\$100 to \$150 per session
Tennis lessons (group)	\$75 to \$90 per session
Swim lessons (group)	\$75 to \$90 per session
Adult	
Adult activities	\$75 to \$125
Adult athletic leagues	\$250 to \$350
Tennis lessons (group)	\$75 to \$90 per session
Resident (open play)	\$5 per visit
Nonresident	\$15 per visit

NOTE: Senior citizens, age 62 and over, receive 50% off on activities other than specified senior programs.

Type of Use	Fee
Field rentals	
Season field permit, baseball or softball, 2-hour slots for nonaffiliated teams	\$175
Softball, baseball or activity field permit	\$25 for each 2-hour time period

Type of Use	Fee
Fields, lighted	\$50 for each 2-hour time period
Park for picnic or party	
1 to 49 participants	\$50
50 to 100 participants	\$100
Park permits for filming	
0 to 6 hours	\$500
6 to 12 hours	\$1,000
Park permits for still photography	
0 to 4 hours	\$100
Edgemont Park building rental (2 hours)	\$80, \$40 each additional hour

- B. Township-supported financial assistance is available based on financial need in accordance with Department guidelines. The Department requires a letter from the Board of Education stating that their child is eligible for the free or reduced lunch program. This documentation entitles families who receive a free lunch a reduction of 50%, and reduced lunch entitles a reduction of 25% in their program fees. Families or adults without Board of Education documentation must present their past year's income tax form. Calculations would be determined by the current HUD guidelines.
- C. A processing fee of \$3.50 or 10% of registration (whichever is greater) will be charged for withdrawal from a program before it starts.
- D. A registration fee of \$10 per participant will be charged to any outside agency who co-sponsors an activity with the Recreation Department. A roster also must be submitted with the payment.¹²⁹

§ 234-8. Fees for use of public swimming pools. [Last amended 5-19-2026 by Ord. No. O-26-20¹³⁰]

- A. The following seasonal fees shall be paid by residents and nonresidents for the use of the public swimming pools in the Township of Montclair located in Nishuane Park and Essex Park and Mountainside:

Seasonal Use (May - August)	Resident Fee	Nonresident Fee
Family (2 adults and 1 or more children)	\$250	\$500
Adult Individual (18+)	\$85	\$170
Individual Child (2 years-17 years)	\$60	\$120
Senior Citizen (65+)	\$25	\$50
Nanny/Caregiver	\$85	\$170

129.Editor's Note: Original § 162-7.1, Fees for summer recreational programs, added 5-26-1998 by Ord. No. 98-20, which immediately followed this section, was repealed 5-23-2000 by Ord. No. 0-19.

130.Editor's Note: Subsequent amendments noted where applicable.

Daily or Single Use Fee (Individual)	Resident Fee	Nonresident Fee
Adult (18+)	\$15	\$30
Child (2 years-17)	\$10	\$20
Senior (65+)	\$10	\$20

- B. Township-supported financial assistance is available to residents upon the filing of an application demonstrating financial need in accordance with Department guidelines.
- C. Replacement of lost permits. Lost permits can be replaced for the following fee:
- (1) Adult: \$25.
 - (2) Child: \$20.
 - (3) Senior: \$10.

§ 234-9. (Reserved)¹³¹

§ 234-10. Fees for ice skating at Montclair Clary Anderson Arena. [Amended last 7-22-2025 by Ord. No. O-25-25]

The following fees shall be paid for use of the Montclair Clary Anderson Arena, situated in Essex Park:

Type of Use	Fee	Skate Rental
General admission (resident)	\$12	\$5
General admission (nonresident)	\$15	\$5
10-ticket pass (resident)	\$100	
10-ticket pass (nonresident)	\$130	
Season pass (resident)	\$250	
Season pass (nonresident)	\$300	
Family pass (2 adults, 2 children)	\$425	
Skate rental	\$5	
General admission, group rate (10 - 50 skaters, resident)	\$11	\$5
General admission, group rate (10 - 50 skaters, nonresident)	\$14	\$5
General admission, group rate (50 - 100 skaters, resident)	\$10	\$5
General admission, group rate (50 - 100 skaters, nonresident)	\$13	\$5
General admission, group rate (100 - 150 skaters, resident)	\$9	\$5
General admission, group rate (100 - 150 skaters, nonresident)	\$12	\$5
General admission, group rate (150+ skaters, resident)	\$13	Incl.

131.Editor's Note: Former § 234-9, Fees for use of tennis courts, as amended, was repealed 3-28-2017 by Ord. No. O-17-008.

Type of Use	Fee	Skate Rental
General admission, group rate (150+ skaters, nonresidents)	\$15	Incl.
Montclair school groups, during school hours (with skates)	\$10	Incl.
Group lessons (7 weeks)	\$145	
Group lessons (10 sessions, skates included)	\$250	Incl.
Group lessons (drop in, skates included)	\$30	Incl.
Ice rental (prime)	\$525	
Ice rental (after 10:00 pm 7 days per week; before 2:00 pm M-F)	\$325	
Parties (includes skates and pizza depends on number and space utilized)	\$325 - \$425	Incl.

§ 234-11. (Reserved)¹³²

132. Editor's Note: Former § 234-11, Fees for roller-skating at Montclair Clary Anderson Arena, as amended, was repealed 3-28-2017 by Ord. No. O-17-008.

ARTICLE III

Protection of Park Vegetation

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 209 of the 1979 Code]

§ 234-12. Definitions. [Amended 5-23-2000 by Ord. No. 00-19]

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

PUBLIC PARK — Public grounds, public square, public park or other public places within the Township limits now existing or which may hereafter be established, whether such public park shall be under the care, custody or control of the Township or of the County of Essex or of any other public authority.

§ 234-13. Prohibited conduct.

No person shall pick, break, mutilate or destroy any flower, shrub or shrubbery, bush or tree in any public park.

§ 234-14. 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 article 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.

Chapter 238**PEDDLING AND SOLICITING**

[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 Art. VI of Ch. 88 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Auctioneers — See Ch. 86.

Display of merchandise on sidewalks — See Ch. 297, Art. VI.

Peddling in parks — See Ch. 234, Art. I.

Mobile vendors — See Ch. 337.

Closeout sales — See Ch. 264, Art. I.

§ 238-1. Definitions.

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

NON-PROFIT-MAKING VENDOR — A person who sells goods, the proceeds of which are devoted exclusively to the purposes of a philanthropic, charitable or religious society on whose behalf he or she acts as an agent without pay.

PEDDLER — A person, commonly referred to as a "peddler" or "hawker," who goes as a vendor from place to place by traveling on the streets or from house to house and carries with him or her goods, wares and merchandise for the purpose of selling and delivering them to consumers at retail; provided, however, that the term "peddler" shall not include an agent or servant of any person who owns and maintains a permanent establishment within the township for the retailing of his or her goods, wares and merchandise.

SOLICITOR — A person who sells goods at retail by sample or who takes orders for future delivery, with or without accepting payment in advance for the goods.

SPECIAL EVENT VENDOR — A person who sells or distributes food, goods or other merchandise at special events sponsored by the Township, or by other groups or organizations for civic, charitable, philanthropic or religious purposes, for a period not to exceed one week or for such shorter period as shall be designated by the Township Clerk upon issuance of the license. **[Added 10-5-2010 by Ord. No. O-10-056]**

TRANSIENT MERCHANT — A person, commonly referred to as a "transient merchant" or "itinerant vendor" who engages in retail merchandising business in the township with intent to close out or discontinue such business within a period of one year from the date he or she begins business and who occupies a room, building, tent, lot or other premises for the purpose of selling goods, wares and merchandise.

TRANSIENT MERCHANT-PEDDLER — A person who engages in retail business in the same manner as does a transient merchant and who, in pursuance thereof, becomes a peddler or hires a peddler.

§ 238-2. Declaration of purpose. [Amended 10-5-2010 by Ord. No. O-10-056]

The purpose of this chapter is to prevent unfair competition, fraud and dishonest business practices by the regulation of the conduct of the classes of vendors or solicitors defined in § 238-1 and by the imposition

upon them of license fees for revenue, except in respect to solicitors and non-profit-making vendors. The license fees for solicitors and non-profit-making vendors are not imposed as a privilege tax but are for the sole purpose of paying in part for the cost of investigating the honesty, reliability and bona fides of such licensees and for the protection of the business which they assume to represent and of the householders of the Township.

§ 238-3. License required. [Amended 10-5-2010 by Ord. No. O-10-056]

Except as exemption is provided in § 238-5, it shall be unlawful for any peddler, transient merchant, transient merchant-peddler, solicitor, non-profit-making vendor or special event vendor to sell or dispose of or to offer to sell or dispose of any goods, wares or merchandise within the Township without first obtaining a license and paying the license fee hereinafter prescribed. Separate licenses shall be issued to each of the five classes of persons defined in § 238-1.

§ 238-4. Separate licenses required for certain employees and places of business.

A separate license shall be obtained by a peddler for every agent or employee working for him or her. A separate license shall be obtained by a transient merchant for each branch or separate place of business in which his or her business is conducted.

§ 238-5. Exemptions.

The requirements of this chapter shall not apply to:

- A. The selling of fruits, vegetables and farm products produced on a farm operated by the vendor or by a member of his or her family.
- B. Any person holding a special license issued to him or her pursuant to the provisions of N.J.S.A. 45:24.9 et seq. and the amendments thereof and supplements thereto.
- C. Any blind person who is a resident of the township.
- D. Any person who conducts a sale pursuant to statute or court order.

§ 238-6. License application.

- A. Applications for licenses shall be filed with the Municipal Clerk on forms provided by him or her. The Municipal Clerk shall refer the applications to the Chief of Police. **[Amended 5-23-2000 by Ord. No. 00-19]**
- B. Applications for all licenses shall contain the following:
 - (1) The name of the applicant.
 - (2) His permanent home residence.
 - (3) The name and address of the firm represented.
 - (4) The names and addresses of the persons from whom the goods making up the stock have been or are to be purchased.
 - (5) Three business references.
 - (6) The places of residence of the applicant for the three preceding years.

- (7) The length of time for which the license is desired.
 - (8) A description of the wares to be offered for sale.
 - (9) A full recital of the applicant's arrests or convictions for misdemeanors or crimes, including a statement of the nature of the offenses for which arrested or convicted and the disposition thereof.
 - (10) A letter, appended to the application, from the firm for which the applicant purports to work, authorizing him or her to act as its representative.
- C. In addition to the requirements under Subsection B of this section, applications for a transient merchant license or for a transient merchant-peddler license shall contain the following:
- (1) A sworn statement of the true invoice of the amount, average quality or kind and value of the goods to be offered for sale.
 - (2) A statement of the location of such goods by street and number and whether located on the premises from which such are sold or in warehouse.
 - (3) If required by the Chief of Police, the bills or invoices of purchase of such goods shall be appended to the application.
- D. In addition to the requirements under Subsections B and C of this section, an application for a transient merchant-peddler license shall contain the following:
- (1) The name and address of each peddler in the employment of the applicant.
 - (2) Three personal references for each such peddler.
 - (3) As to each peddler, a full recital of arrests or convictions as provided in Subsection B of this section.

§ 238-7. Investigation of applicant. [Amended 10-5-2010 by Ord. No. O-10-056]

Following the filing of an application for any license except an application for a special event vendor license, the Chief of Police shall make an investigation of the information respecting the moral character of the applicant. He or she shall signify his or her approval or rejection on the reverse side of the form. The Chief of Police shall investigate the financial information, approving or rejecting the application on its reverse side.

§ 238-8. Additional investigations; bond requirements.

- A. Before approving the issuance of a license for a transient merchant or a transient merchant-peddler, the Chief of Police shall:
- (1) Establish the character of the business by eliciting a declaration of intention as to whether the applicant intends to remain within the township temporarily or longer than a period of one year.
 - (2) Require filing of a bond in an amount equal to 25% of the value of the applicant's stock; provided, however, that in no event shall such bond be for less than \$500. Such bond shall be in a form approved by the Township Attorney. Such bond shall be subject to forfeiture upon proof of:

- (a) Falsification in the application for a license;
 - (b) Willful violation of a township ordinance or a state or federal law; or
 - (c) Removal from the township within a year after opening the business premises without payment of a license fee or fees due under this chapter at the time of such removal.
- B. If the business of the transient merchant or transient merchant-peddler is conducted continuously for more than one year, no further license shall be required of such person under this chapter, and the bond required under this section shall be released and surrendered for cancellation.

§ 238-9. Issuance of license; form; card.

Upon investigation and approval of the application and payment of the license fee required by § 238-12, the license shall be issued by the Municipal Clerk. All licenses shall be issued on forms drawn in accordance with the separate license classification requirements of this chapter. They shall be printed in book form, with corresponding stubs and shall be consecutively numbered. Licenses shall contain suitable blank spaces for writing in the name, the class of license granted, the location of the business and the amount of fee paid. To every licensed peddler, the Municipal Clerk shall issue a card bearing the words "Licensed Peddler, Township of Montclair," the number of the license and the year for which it is issued.

§ 238-10. License nontransferable.

No license shall authorize any person except the person named in said license to engage in business thereunder. No license shall be transferable to any other person. Each transient merchant license or transient merchant-peddler license shall authorize the licensee to conduct business only at the location which is indicated therein.

§ 238-11. Display of license.

Every licensee shall carry his or her license with him or her or at his or her business premises while engaged in the business licensed. He or she shall produce the license at the request of any official of the township. All automobiles or other vehicles used for peddling shall have affixed thereon the license card referred to in § 238-9. Transient merchants and transient merchant-peddlers shall post their license certificates in a prominent place in their business premises.

§ 238-12. License fees; duration of license.

The fees for licenses shall be:

- A. For peddlers: \$25 for a license issued for one day and \$100 for a license issued for a one-year term. All peddlers' licenses shall expire at the close of December 31 of the year in which issued. **[Amended 3-31-1987 by Ord. No. 87-12; 5-2-1991 by Ord. No. 91-24; 5-23-2000 by Ord. No. 00-19; 6-13-2006 by Ord. No. 06-27; 7-7-2009 by Ord. No. O-032-09]**
- B. For transient merchants: \$500 for a license continuing for 180 days from the date of issuance.
- C. For transient merchant-peddlers: \$500, plus \$15 for each peddler in the employment of the licensed transient merchant-peddler, for a license continuing for 180 days from the date of issuance.
- D. For solicitors: \$100 for a license continuing to the close of December 31 of the year in which issued. **[Amended 3-31-1987 by Ord. No. 87-12; 5-23-2000 by Ord. No. 00-19; 6-13-2006 by Ord. No. 06-27; 7-7-2009 by Ord. No. O-032-09]**

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- E. For non-profit-making vendors: \$10 for a license continuing to the close of December 31 of the year in which issued.
- F. For special event vendors: \$25 per day. [Added 10-5-2010 by Ord. No. O-10-056]

§ 238-13. Township records of licenses; monthly reports.

- A. The Municipal Clerk shall maintain records showing the time each application for license is received, the class of each license application, whether the application is for a new or renewal license, the name of the licensee, the regular number of the license form-book blank, the date when the application is approved by the Chief of Police, the amount of fee received therefor and the date when the license is issued.
- B. The Municipal Clerk shall file a monthly report with the Township Council, showing the number of licenses granted, by classes, and the amounts of fees received therefor. Each report shall state the number and classes of licenses suspended or revoked and the reasons for such suspension or revocation. The monthly report shall be cumulative during the course of the year so that each report summarizes the action of all preceding months of the year.

§ 238-14. Revocation and suspension of licenses. [Amended 10-5-2010 by Ord. No. O-10-056]

A license may be revoked by the Township Manager or the Township Clerk for violation of the terms of the license or of any municipal ordinance or state or federal statute or for falsification in applying for a license. The licensee shall be granted a hearing by the Township Manager or his designee upon his or her request. No such revocation shall take effect until the licensee has been given written notice by personal service or registered or certified mail of opportunity to request a hearing and he or she fails to make such request within five days of such service. Preceding or pending a proceeding for suspension or revocation, a license may be suspended for not more than two weeks by the Township Manager without a hearing if the Manager, in his or her judgment, deems that cause for suspension or revocation is present as set forth in this section and that the public health, safety or welfare require such summary suspension.

§ 238-15. 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.

Chapter 241**PORTABLE STORAGE UNITS**

[HISTORY: Adopted by the Council of the Township of Montclair 6-24-2008 by Ord. No. 08-18.¹³³ Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 218.

Streets and sidewalks — See Ch. 297.

Property maintenance — See Ch. 247.

Zoning — See Ch. 347.

§ 241-1. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

PORTABLE STORAGE UNIT — Any container designed for the outdoor storage of personal property, including a "POD" or similar storage container, which is typically rented to owners or occupants of property for their temporary use and which is delivered and removed by vehicle.

SITE or PROPERTY — A piece, parcel, tract, or plot of land occupied or that may be occupied, by one or more buildings or uses and their accessory buildings and accessory uses which is generally considered to be one unified parcel.

USER — The owner or occupant of property entering into an agreement with a portable storage unit company or other person or entity for the placement of a portable storage unit on a site located in the Township of Montclair.

§ 241-2. Placement.

- A. No portable storage unit shall be placed or maintained by any private person or entity in or on any Township property, street or right-of-way without a valid permit issued by the Chief of Police in accordance with the requirements of Chapter 260 of the Township Code applicable to roll-off containers and dumpsters.
- B. No portable storage unit shall be placed or maintained on any private property unless it complies with one or more of the following provisions:
 - (1) Such containers may be placed or maintained on a driveway or other suitably paved area at the furthest accessible point from the street for purposes of packing or unpacking goods and materials of the owner or occupant of the property in preparation for or subsequent to moving into or out of the property for a period of not more than 30 consecutive days.
 - (2) Such containers may be placed or maintained on a driveway or other suitably paved area at the furthest accessible point from the street for purposes of storing the personal property of the owner or occupant of the property when necessary during renovation or rehabilitation of the

133.Editor's Note: This ordinance was originally designated to be added as Chapter 261 but was renumbered to maintain the organization of the Code.

structure located on the property in which the personal property would otherwise be located during the period of renovation or rehabilitation, but in no event more than a total of 30 consecutive days.

§ 241-3. Permits required.

Prior to the placement of a portable storage unit on any private property (not covered by a duly approved site plan), the owner of the property using the portable storage unit or the person contracting for the use of such portable storage unit shall apply for and receive a permit from the Township in accordance with the requirements and standards set forth herein.

- A. Application for a permit shall be made to the Township Construction Official on a form provided by the Township. The application shall require, among other things, the full name, address and other contact information for the owner of the portable storage unit, the owner of the property with which the use of the portable storage unit is associated, and the person contracting for the use of the portable storage unit (if such person is not the owner of the property for which the portable storage unit is to be used). Every application for a permit shall be accompanied by a permit fee of \$25.
- B. Any portable storage unit placed on private property shall be placed on a suitable base to assure stability. If, in the opinion of the Police Department or the Township Engineer, the location is sufficiently close to a vehicular intersection or pedestrian path, the permit may require that the unit be equipped with appropriate reflectors or other safety markings so that the unit will not constitute a hazard to traffic or pedestrians. The specific number, location and type of markings shall be determined by the Police Department or the Township Engineer and noted on the permit at the time of its issuance or at any time thereafter.
- C. Any permit issued for placement of a portable storage unit on private property shall be valid for a period of 30 days, and a sticker or notice shall be prominently displayed on the portable storage unit or on the property upon which the unit is placed indicating the commencement and expiration dates of the permit.
- D. Upon a showing of continued need for the portable storage unit (such as during the course of major construction projects), the Construction Official may renew a permit for up to two additional periods, not to exceed 30 days each, upon the filing of an application for renewal and payment of a fee of \$25 for each renewal. **[Amended 9-22-2009 by Ord. No. O-044-09]**
- E. An application for an additional extension beyond the time periods specified in Subsection D may be made to the Construction Official or his designee on a form provided by the Township. The application shall contain complete identifying information regarding the portable storage unit, the permit number, the time the portable storage unit has been at the Site, and the reason for its use. The application for an additional extension shall be accompanied by a fee of \$50. **[Amended 9-22-2009 by Ord. No. O-044-09]**
 - (1) The application shall be reviewed and a determination made as to whether an additional extension should be granted, and the duration of that extension, within five business days of the filing of a complete application.
 - (2) In considering the application, the Construction Official or his designee shall consider the following:
 - (a) The length of time the portable storage unit has been in place;

- (b) The particular use of the portable storage unit;
- (c) The reasonableness of the time required to complete that purpose in light of all attendant circumstances;
- (d) The location of the portable storage unit;
- (e) The visual impact, nature of the neighborhood, and similar issues;
- (f) Whether noise, litter or other quality of life issues have been associated with the use of the portable storage unit;
- (g) Whether the delay in completing the work or project for which the portable storage unit is necessary is beyond the reasonable control of the owner of the property;
- (h) The additional time reasonably necessary to complete the work or project; and
- (i) Such other factors deemed reasonable and appropriate wider the circumstances.

§ 241-4. General restrictions and requirements.

- A. No more than one portable storage unit may be placed on any property at one time and no more than one permit may be issued for any property, including any renewals of said permit, during a twelve-month period.
- B. No hazardous material or organic waste shall be placed in a portable storage unit.
- C. No portable storage unit shall be used for the storage of construction debris, business inventory, commercial goods, or any personal property which is not owned by the owner or occupant of the property where the unit is located. Upon reasonable notice to the permit holder, the Township may inspect the contents of any portable storage unit for compliance with this chapter.
- D. The owner of the portable storage unit and the owner of the site on which the unit is located shall be jointly responsible to ensure that the portable storage unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks.
- E. A portable storage unit shall be no larger than 130 square feet in area and no higher than 10 feet above grade.

§ 241-5. Responsibility for compliance.

The person contracting for the use of a portable storage unit and the owner of the property associated with its use shall be jointly responsible for compliance with the provisions of this chapter. Copies of the penalty provisions of this chapter shall be appended to the permit and shall be mailed with a copy of the permit to the owner of the portable storage unit, the property owner, and any other interested party.

§ 241-6. Violations and penalties.

- A. It shall be unlawful for a portable storage unit to remain on any property in excess of the time period set forth in the permit issued by the Township. Each day a portable storage unit remains on a property in violation of the provisions of this chapter shall be considered a separate violation subject to the penalty provisions set forth below.
- B. Any person who violates any provision of this chapter shall, upon conviction in Municipal Court or

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PORTABLE STORAGE UNITS

any other court having jurisdiction, be liable for a fine not exceeding \$2,000, or imprisonment for a term not exceeding 90 days, or community service for a term not exceeding 90 days, or any combination of the above.

MONTCLAIR CODE

Chapter 243

PRECIOUS METALS DEALERS

[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 Art. IX of Ch. 88 of the 1979 Code. Amendments noted where applicable.]

§ 243-1. Definitions.

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

DEALER — Any person, firm or corporation who, through any means, buys or sells secondhand gold, silver, other precious metals, precious or semiprecious gems or jewelry within the municipality.

MINOR — Any person under the age of 18 years.

§ 243-2. Records.¹³⁴

Each dealer shall maintain a complete record of each purchase of each item of secondhand gold, silver or other precious metals, gems or jewelry, the amount paid, the name, residence address and the age of the person from whom the items were purchased or received. These records shall be subject to inspection by the Chief of Police or his or her designee upon request.

§ 243-3. Time limit prior to disposition of items.

No dealer shall sell, melt, change the form of or dispose of any such items purchased or received within five days from the date of purchase or receipt of such items with the Chief of Police. All such items shall remain on the premises where the purchase was made for that entire five-day period.

§ 243-4. Identification; purchases from minors.

Each dealer shall require identification, such as a driver's license, of the person with whom he, she or it is transacting business, and no purchase may be made from any minor.

§ 243-5. 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.

¹³⁴Editor's Note: Certain words in §§ 243-2, 243-3 and 243-5 and original Section 2 were invalidated pursuant to an action of the Superior Court of New Jersey.

Chapter 247**PROPERTY MAINTENANCE**

[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. 170 of the 1979 Code. Amendments no where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 100.

Housing standards — See Ch. 190, Art. I.

Unfit buildings — See Ch. 108.

Multifamily buildings — See Ch. 213.

Uniform construction codes — See Ch. 121.

Nuisances — See Ch. 218.

Fire prevention — See Ch. 153.

Signs — See Ch. 277.

Health standards — See Ch. 186.

Solid waste — See Ch. 292.

§ 247-1. Policy; purpose; standards.

- A. Declaration of policy. It is hereby declared that there exist in the Township of Montclair structures used for commercial, business, industrial and nonresidential purposes which are or may become in the future substandard with respect to structure, equipment or maintenance, and, further, that such conditions, including but not limited to structural deterioration, lack of maintenance and appearance of exterior of premises, infestation, lack of essential heating, plumbing, storage or refrigeration equipment, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, and unsanitary conditions, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the Township of Montclair. It is further declared that by reason of a lack of maintenance and progressive deterioration, certain properties have the further effect of causing blight and initiating slums; that if the same are not curtailed or removed, such conditions may grow and spread and necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by the adoption of the regulations and restrictions herein contained, slums and blight may be prevented and neighborhood and property values may be maintained and upgraded, nonresidential uses and neighborhoods may be better maintained and the public health, safety and welfare protected and fostered.
- B. Purpose. The purpose of this chapter is to establish minimum standards governing the conditions, maintenance and appearance of buildings and premises in the Township of Montclair used or intended to be used for commercial, business, industrial or any other nonresidential occupancy; to establish minimum standards governing utilities, facilities and other physical equipment essential to make the aforesaid buildings and premises safe and sanitary; to fix responsibilities and duties of owners and occupants of buildings; to authorize the inspection of buildings and premises; and to fix penalties for violations.
- C. Standards. The provisions of this chapter shall constitute the standards to guide the enforcement officer in determining the fitness of premises for use and occupancy and in determining whether the premises are being maintained in such condition as to constitute and produce a blighting effect upon

neighboring properties and to cause a progressive deterioration and downgrading of neighborhood properties with an accompanying diminution of neighborhood property values.

§ 247-2. Definitions and word usage.

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

BATHROOM — Any enclosed space which contains a water closet and which may also contain one or more of the following: bathtub, shower, lavatory or fixtures serving similar purposes.

BUILDING — Any building or structure or part thereof, whether used for human habitation or otherwise, and includes any outbuildings and appurtenances belonging thereto or usually utilized in connection therewith.

DETERIORATION — The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other substantial evidence of physical decay, neglect, lack of maintenance or excessive wear.

ENFORCEMENT OR ENFORCING OFFICER — The Zoning and Housing Officer.

EXPOSED TO PUBLIC VIEW — Any premises or part thereof which may be lawfully viewed by the public or any member thereof from a sidewalk, street, alleyway, parking lot or from any adjoining or neighboring premises.

EXTERIOR OF THE PREMISES —

- (1) Any part of the premises not occupied by any building;
- (2) Any open space on the outside of any building; or
- (3) Any part of any building which is exposed to the elements.

EXTERMINATION — The control and elimination of insects, rodents and vermin, whether by eliminating their harborage places or by removing or making inaccessible material that may serve as their food, or by poisoning, spraying, fumigating, trapping or any other legal means of pest elimination.

GARBAGE — The animal and vegetable matter or other organic waste resulting from the handling, preparation, cooking and consumption of food or other products.

HAZARD — Includes but is not limited to the following:

- (1) Natural growth. Dead and dying trees, limbs and other natural growth which, by reason of rotting or deteriorating conditions or storm damage, are or may be dangerous to persons in the vicinity thereof.
- (2) Overhangs. Loose, overhanging and projecting objects and accumulations of ice and snow which, by reason of location above ground level, constitute a danger to persons in the vicinity thereof.
- (3) Ground surface conditions. Holes, excavations, breaks, heaps of material, ungraded fill, projections, traps and obstructions on paths, sidewalks, driveways, parking lots and parking areas and other parts of the exterior of the premises which are accessible to and used by persons having access to such premises.
- (4) Recurring accumulation of stormwater. Inadequate running off or recurrent accumulations of stormwater due to lack of or improper installation or maintenance of drains.

- (5) Sources of infestation. Conditions conducive to breeding or harboring of insects, rodents, vermin or pests.
- (6) Defective foundation walls. Holes, breaks, deterioration, undermining or any damage in foundation walls rendering same incapable of safely bearing all imposed loads placed thereon or of excluding weather, vermin and other pests.
- (7) Defective chimneys, flues and vent attachments thereto. Chimneys, flues and vent attachments not structurally sound or free from defects, or inadequately designed, attached or maintained, so as to perform capably at all times the functions for which they were designed and constructed; chimneys, flues, gas vents and other draft-producing equipment which do not provide sufficient draft to develop the rated output of the connected equipment or are not structurally safe, durable, smoketight or capable of withstanding the action of flue gases.
- (8) Defective exterior porches, landings, balconies, stairs and fire escapes. Exterior porches, landings, balconies, stairs and fire escapes which are not provided with banisters or railings properly designed, not structurally sound or maintained in good repair, painted or not otherwise provided with a protective treatment to prevent deterioration.

INFESTATION — The presence on or within premises of insects, rodents, vermin or pests.

LITTER — Any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material, or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can; any unlighted cigarette, cigar, match or any flaming or glowing material; or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste; newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, saw milling, farming or manufacturing. **[Amended 2-19-1991 by Ord. No. 91-5]**

MIXED OCCUPANCY — The use of any building for both residential and nonresidential purposes.

NUISANCE —

- (1) Any public nuisance known at common law or as defined by the statutes of the State of New Jersey or by the ordinances of the Township of Montclair.
- (2) Any inadequately protected well, shaft, basement, excavation, abandoned motor vehicle, appliance or equipment, structurally unsound fence or building, building materials, trash, debris or vegetation, such as poison ivy, oak or sumac, or other substance or any condition which is or may be detrimental to the safety or health of persons.
- (3) Any hazard, as defined herein, which is dangerous to human life or detrimental to health of persons on or near the premises where the hazard exists.
- (4) Fire hazards, as defined by Chapter 153, Fire Prevention.

OCCUPANCY UNIT — Any room or group of rooms or part thereof forming a single usable unit (used or intended to be used or designed to be used for nonresidential purposes) and located within a building used or intended to be used or designed to be used in whole or in part for other than residential occupancy.

OCCUPANT — Any person or persons (including the owner) in actual possession of and using an entire building or an occupancy unit in a building.

OPERATOR — Any person (including the owner) who has care or control of the premises or any part thereof.

OWNER — The holder or holders of all or part of the title to the premises.

PARTIES IN INTEREST — All individuals, associations and corporations who have interests of record in a building or premises and any who are in actual possession thereof.

PERSON — Any individual, firm, corporation or other legal entity, and also a political subdivision of a state or the United States.

PREMISES — A lot, plot or parcel of land whether or not the same has buildings situated thereon.

PUBLIC AUTHORITY — The person or persons who are authorized by the codes and ordinances of the Township of Montclair to exercise powers prescribed therein.

REFUSE — Any rotting or spoiling foodstuffs, fruits or vegetables and all putrescible and nonputrescible solid wastes, including but not limited to garbage, rubbish, ashes, litter, dead animals, abandoned automobiles and solid market and industrial wastes, brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, trash, rubbish and debris of any description.

RUBBISH — All combustible and noncombustible waste materials, except garbage.

STRUCTURE — Any assembly of materials forming a construction, including but not limited to buildings, stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, open sheds, bins, shelters, fences and display racks and signs.

TRANSLUCENT — The property of admitting the passage of light but diffusing it so that objects cannot be clearly distinguished.

TREE PIT — The area immediately surrounding a tree, the perimeter of which may be decorative brick, grating, native soil or grass. **[Added 12-27-2001 by Ord. No. 01-54]**

WEATHERING — Deterioration, decay or damage caused by exposure to the elements.

WINDOW — An opening in the wall or roof of a building for the admission of light or air, which opening may be closed to the elements by casements or sashes containing glass or other transparent or translucent materials.

WINDOW DISPLAY AREA — That area of a building in proximity to the inner surface of a window which is designed or used for the viewing of the interior and the display of items representative of any goods or services pertaining to the business conducted therein.

- B. Meaning of certain words. Whenever, in describing or referring to any person, party, matter or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and to apply to several persons or parties as well as to one person, and to females as well as males, and to bodies corporate and partnerships as well as individuals, and to several matters and things as well as one matter or thing.

§ 247-3. Applicability.

- A. Each and every lot and building thereon located in the Township of Montclair which is not exclusively residential by virtue of its use, intended use or design shall comply with the provisions of this chapter, whether or not any such building shall have been constructed, altered or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of any such building or premises, for the construction, alteration

or repair of any such building or for the installation or repair of equipment or facilities therein or thereon prior to the effective date of this chapter. This chapter establishes minimum standards for the initial and continued occupancy and use of all such buildings and premises and does not replace, modify or lessen standards otherwise established for the construction, repair, alteration or use of such buildings and premises, equipment or facilities contained therein or thereon, except as provided in Subsection B hereof.

- B. Where there is a mixed occupancy of such buildings and premises, the residential and nonresidential uses thereof shall be regulated by and be subject to the applicable provisions of both this chapter and all other ordinances and codes of the Township of Montclair thereto pertaining.
- C. In any case where a provision of this chapter is found to be in conflict with any provision of any zoning, building, fire, safety or health ordinance or code of the Township¹³⁵ as it relates to such buildings and premises, including provisions governing the issuance of licenses and permits, the provision which establishes the higher standard for the promotion and protection of health and safety shall prevail and be applied.
- D. Nothing in this chapter shall be construed to abrogate or impair the powers of any department or official of the Township to enforce the provisions of any Township ordinance or regulation or to prevent or punish any violation thereof.

§ 247-4. Independent responsibilities of owner, operator and occupant.

- A. Owner and operator. Owners and operators shall have all the duties and responsibilities prescribed in §§ 247-5 through 247-8 inclusive and in the regulations promulgated pursuant thereto, and no owner or operator shall be relieved from such duties or responsibilities by reason of the fact that the other of them or the occupant is also responsible therefor and in violation thereof.
- B. Occupant. Occupants shall have all the duties and responsibilities prescribed in §§ 247-5 (except Subsection F), 247-7, 247-8 and 247-9 and in all regulations promulgated pursuant thereto; and the occupant shall not be relieved of any such duties or responsibilities by reason of the fact that the owner or operator, or both, is or are also responsible therefor and in violation thereof.
- C. Contract not to alter responsibilities. The respective duties and responsibilities imposed hereunder on the owner, operator and occupant shall not be altered or affected by any agreement or contract to which one or more of them is or are a party or parties.

§ 247-5. Maintenance of exterior of premises.

The exterior of the premises and all structures thereon shall be kept free of litter and of all nuisances and hazards to the safety of tenants, occupants, pedestrians and other persons having access to the premises, and free of unsanitary conditions. The exterior of the premises shall also reflect a level of maintenance in keeping with the standards of the neighborhood, shall meet the standards of this chapter or such higher standards as may be adopted by the Township and shall not constitute a blighting effect upon neighborhood properties. Specifically, but not in limitation of the generalities of the foregoing, the following standards shall be maintained:

- A. Storage. There shall not be stored or used at a location visible from the street, sidewalks or other public areas equipment and materials relating to commercial or industrial uses unless permitted under

135. Editor's Note: See Ch. 121, Construction Codes, Uniform; Ch. 153, Fire Prevention; Ch. 186, Health Standards; and Ch. 347, Zoning.

Chapter 347, Zoning, for the premises or unless permitted by Board of Adjustment action.

B. Landscaping. [Amended 9-13-1983 by Ord. No. 83-33]

- (1) The landscaping of premises shall be maintained in an orderly state, with lawns and bushes trimmed and free from litter. Open area shall be graded to eliminate holes, depressions, gullies, mounds, accumulations of debris or other unsightly or unsafe conditions.
- (2) All landscaped areas, including trees, ground covers and other plant material, shall be properly maintained in accordance with the design intent of any approved site plan. All trees, ground covers and other plant material which are shown on an approved site plan shall be replaced if dead or in an unhealthy or damaged condition.

- C. Signs and billboards. All duly authorized signs and billboards shall be maintained in good repair. Any sign or billboard which has faded or weathered excessively or the paint on which has excessively peeled or cracked shall, with its supporting members, be put into a state of good repair or removed. The responsibilities of an occupant under this subsection shall be limited to signs and billboards erected or used by such occupant.¹³⁶
- D. Window and window display areas. All windows exposed to public view shall be kept clean and free of marks and foreign substances. Except when necessary in the course of changing displays, no storage of materials, stock or inventory shall be permitted in window display areas ordinarily exposed to public view unless such areas are first screened by drapes, venetian blinds or other means. All screening of interiors shall be maintained in a clean and attractive manner and in a good state of repair.
- E. Removal of signs or advertisements. Any temporary sign or other advertising material glued or otherwise attached to a window or otherwise exposed to public view shall be removed at the expiration of the event or sale for which it was erected or posted.
- F. Repair and painting of exteriors of buildings. All storefronts and the exterior of every building, structure or appurtenance thereto shall be maintained in good repair, and all exterior surfaces thereof shall be kept painted or otherwise provided with a protective treatment where necessary for purposes of preservation and appearance, and maintained free from broken or cracked glass, loose shingles or siding or crumbling masonry, excessively peeling paint or other condition indicating deterioration or inadequate maintenance, to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties and the neighborhood protected from blighting influence.
- G. Awnings and marquees. Any duly authorized awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair, installed at a sufficient height and so maintained as not to constitute a nuisance or a safety hazard. In the event any such awning or marquee is made of cloth, plastic or of similar materials, said materials, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or other deterioration. Nothing herein shall be construed to authorize any encroachment of an awning, marquee or its accompanying structural members on streets, sidewalks or public ways.¹³⁷
- H. Scaffolding. No temporary scaffold or other temporary equipment used for construction, repair, painting or maintenance shall be permitted to remain in place after completion of work or beyond a

136.Editor's Note: See Ch. 277, Signs.

137.Editor's Note: See Ch. 297, Streets and Sidewalks, Art. V, Awnings, Canopies and Marquees.

period of three months after erection or placement thereof without permission of the Superintendent of Building Inspections.

I. General sanitation and safety. **[Added 12-27-2001 by Ord. No. 01-54]**

- (1) Every operator of a property immediately adjacent to a sidewalk which includes a tree pit shall be responsible for maintaining the appearance of the tree pit, including, but not limited to, removal of any and all litter that may accumulate therein.
- (2) In the event a tree pit is adjacent to more than one operator, then all of the operators adjacent to the tree pit shall be responsible to comply with this subsection.

J. Boarded commercial storefronts. **[Added 3-4-2014 by Ord. No. O-14-001]**

- (1) Requirement to register.
 - (a) No commercial first-floor store front shall be boarded without first registering with the Township's code enforcement office; and
 - (b) Registration shall be deemed complete when the property owner or its agent shall provide the Township with the property location, owner's name and name and phone number of the person responsible for the property.
- (2) Requirement for permit.
 - (a) Any person found to not have registered their boarded storefront shall be immediately required to obtain a permit.
 - (b) A registered property may not remain boarded for more than 14 days without obtaining a permit from the Director of Planning.
 - (c) The permit shall be issued upon the property owner demonstrating to the Director of Planning that a creative and attractive window covering shall be maintained on the property.
 - (d) The permit shall be valid for 90 days and must be displayed on the premises.
 - (e) The property owner may petition the Director of Planning for an extension prior to the expiration date. Extension shall only be granted for extraordinary circumstances.
- (3) Fee.
 - (a) There shall be no permit fee if the property owner has registered the property in compliance with the registration section of this Subsection J.
 - (b) The fee for a permit issued pursuant to this subsection for any property found not to have registered with the Township shall be \$100.

§ 247-6. Roof maintenance.

All roofs shall be maintained in good repair, and where occupants use or have access to the roof of any building, such roof shall be free from conditions resulting in danger to life or limb by reason of lack of railings, inadequate parapets, loose materials or other dangerous conditions. The enforcing officer, when he or she finds the existence of the dangerous conditions, may, with the concurrence of the Fire Department, direct the owner or operator of the premises to lock or otherwise bar access to the roof until such dangerous

conditions are eliminated.

§ 247-7. General sanitation and safety.

- A. Floors and supporting structural members shall be maintained in a structurally sound condition, and there shall not be imposed thereon any load which shall constitute a hazard or exceed the safe limits for which said floor was designed.
- B. Bathroom floors shall be surfaced with water-resistant material and shall be kept in a dry, clean and sanitary condition at all times.
- C. In buildings containing not more than four occupancy units, it shall be the responsibility of each of the occupants, and in buildings containing more than four occupancy units, it shall be the responsibility of the owner and operator, to furnish such receptacles as are needed for the proper storage of garbage and rubbish until removal of all garbage and rubbish and to provide for the regular and periodic removal of all garbage and rubbish from the premises.
- D. Storage bins, rooms and areas shall not be used for the storage of accumulated garbage and rubbish unless:
 - (1) Such rubbish is stored in watertight containers of metal or other material approved by the enforcing officer.
 - (2) Such storage bins, rooms and areas are of smooth, easily cleanable construction and are kept in a sanitary condition.
 - (3) Such areas, if located outside a building and visible from any public walk, street or public parking area, are shielded by a method approved by the enforcing officer and constructed in compliance with the applicable provisions of the Building Code of the Township of Montclair.¹³⁸
- E. Except in compliance with regulations of the Department of Community Services relating to collection procedures, rubbish and garbage shall be placed or kept on the property within the building located thereon or not nearer to the street line than the building line or nearer to the street line than the face of the building, whichever distance from the street line is the greater. **[Amended 6-15-2004 by Ord. No. 04-34]**
- F. Flammable or combustible liquids or other materials shall not be stored on the premises unless they are of a type approved for storage by the Fire Department and then only in such quantities as may be prescribed by applicable Fire Department directives or regulations.¹³⁹
- G. Every occupant of an occupancy unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises. In addition to the foregoing provision of this subsection, whenever infestation is caused by failure of the owner or operator to maintain any such building in a reasonably pestproof condition, extermination shall be the responsibility of the owner and operator.

§ 247-8. Electric service.

- A. Every building shall be provided with electric service, where required, in accordance with the applicable codes from time to time adopted by the Township.

¹³⁸.Editor's Note: See Ch. 121, Construction Codes, Uniform.

¹³⁹.Editor's Note: See Ch. 153, Fire Prevention.

- B. Every bathroom shall be provided with permanently installed and operating artificial lighting fixtures with switches and wall plates so located and maintained that there is no danger of electric shock from a simultaneous contact with a water supply fixture.
- C. Maximum fuse or circuit breaker sizes as specified by the National Electrical Code, as amended from time to time, shall be posted conspicuously on the inside cover of all fuse or circuit breaker boxes, and no fuse or circuit breaker shall be installed therein in excess of the stated maximum. Owners and operators shall not be held responsible for violations in fuse and circuit breaker sizes where the correct maximum size is stated and the fuse or circuit breaker box is located within any part of the building which is in the exclusive possession of an occupant or occupants other than the owner.

§ 247-9. Responsibilities of occupants.

- A. Upon discovery by an occupant of any condition on the premises which constitutes a violation of this chapter, the occupant shall report the same to the Zoning and Housing Officer.
- B. All parts of the premises under the control of an occupant shall be kept in a clean, sanitary and safe condition by the occupant, and the occupant shall refrain from performing any acts which would render other parts of the premises unclean, unsafe or unsanitary or which would prevent the owner or operator from performing any duty required hereunder.

§ 247-10. Administration and enforcement.

- A. Enforcement officer. The Zoning and Housing Officer is hereby designated and appointed to enforce the provisions of this chapter. The Zoning and Housing Officer may authorize members of his or her Department to make inspections, prepare and serve notices and orders and to take all action necessary to secure compliance with the provisions of this chapter. The Zoning and Housing Officer shall seek and receive the cooperation of all other Township departments having concurrent jurisdiction over the matters covered by this chapter.
- B. Inspection of premises. All premises within the Township of Montclair covered by this chapter shall be subject to inspection from time to time by the Zoning and Housing Officer to determine the condition thereof in order that he or she may perform his or her duty of safeguarding the health and safety of the persons occupying and using the same and of the general public. For the purpose of making such inspections, the enforcing officer is hereby authorized to enter, examine and survey at all reasonable times all such premises; provided, however, that such entries are made in such manner as to cause the least possible inconvenience to the persons in possession. The owner, operator and persons occupying the same shall give the enforcing officer free access to the same at all reasonable times for the purpose of such inspection. Every person occupying such premises shall give the owner and operator thereof access to that portion of the premises occupied by or in the possession of such person at all reasonable times for the purpose of making such repairs, alterations or corrections as are necessary to effect compliance with the provisions of this chapter or with any lawful rules or regulations adopted or any lawful order issued pursuant to the provisions of this chapter.
- C. Where violations of the provisions of this chapter are brought to the attention of the enforcing officer, such officer or his or her duly authorized representative shall prepare a notice in writing setting forth all violations and shall order that the same be eliminated within 30 days. Such notice and order shall be delivered to the occupant or owner or operator, or any or all of them, as the case may be, personally or by leaving the same with any person in charge of the premises. In the event that no such person is found upon the premises, service of notice and order shall be made by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises and by mailing, by certified mail, a

copy thereof to the owner, operator or occupant at his or her last known post office address.
[Amended 7-7-1981 by Ord. No. 81-33]

D. Vacation of premises in emergency.

- (1) Where the enforcing officer makes a preliminary finding that conditions on the premises constitute an immediate and substantial threat to the safety or health of occupants of or persons in proximity to the premises, he or she may order and direct that the premises be vacated immediately and that signs or notices be posted prohibiting occupancy thereof.
- (2) Any occupant, owner or operator aggrieved by such order may, within seven days, file an appeal petition with the Mayor requesting a review of such order. It shall be the duty of the Mayor to review, after public hearing, and either sustain, vacate or modify such order within 14 days from the time the petition is filed. The hearing on any such review may be conducted either by the Mayor or by such hearing officer (including another Council member) as the Mayor may designate. An application for such review shall not constitute a stay of the order of the enforcing officer, and the premises subject to such order shall remain vacated during the pendency of the review proceedings. Subject to all further rights of review in the courts provided or permitted by law, the decision of the Mayor shall be final.

§ 247-11. Advisory Board. [Amended 11-25-1980 by Ord. No. 80-63; 6-25-1991 by Ord. No. 91-35]

An Advisory Board consisting of 11 persons shall be appointed annually by the Township Council for the purpose of reviewing from time to time the operations of this chapter and such other charges and responsibilities which may be given to it by resolution of the Council. To the largest extent practicable, there shall be at least one person appointed from each of the major business districts in Montclair. The Advisory Board shall be empowered to receive suggestions of officials of the Township of Montclair, interested citizens and property owners and occupants and may recommend additions, revisions, deletions or other amendments of this chapter to the Council of the Township of Montclair for its consideration.

§ 247-12. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 12-27-2001 by Ord. No. 01-54; 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.

PROPERTY, VACANT AND ABANDONED

Chapter 249

PROPERTY, VACANT AND ABANDONED

**[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

Registration and Maintenance**[Adopted 7-16-2013 by Ord. No. O-13-29]****§ 249-1. Definitions. [Amended 12-20-2022 by Ord. O-22-28]**

As used in application of this article for which any property, vacant or abandoned, that any municipal ordinance applies, the following terms shall have the meanings indicated:

ABANDONED PROPERTY — Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property. Each block and lot shall be a separate property.

CREDITOR — A mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this article, a creditor shall not include the state, a political subdivision of the state, a state, county, or local government entity, or their agent or assignee, such as the servicer.

OWNER — Includes the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions of Public Law 2008, Chapter 127, Section 17 (N.J.S.A. 46:10B-51), or Section 2 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s2), any debtor in possession of the property, lienholder or mortgage holder, or any other entity determined by the Township to have authority to act with respect to the property.

REGISTRANT — Any person or entity who files a registration statement in accordance with this article shall be also known as a "registrant."

STRUCTURE — Any construction, production, or piece of work artificially built up or composed of parts purposefully joined together.

VACANT PROPERTY — Any residential or commercial structure that meets the following criteria shall be deemed vacant:

A. If it is not legally occupied by an owner, a mortgagor or tenant, which is in such condition that it cannot legally be reoccupied because of the presence or a finding of at least two of the following:

- (1) Overgrown or neglected vegetation;
- (2) The accumulation of newspapers, circulars, flyers, or mail on the property;
- (3) Disconnected gas, electric, or water utility services to the property;
- (4) The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (5) The accumulation of junk, litter, trash, or debris on the property;
- (6) The absence of window treatments such as blinds, curtains, or shutters;
- (7) The absence of furnishings and personal items;
- (8) Statements of neighbors, delivery persons, or government employees indicating that the property is vacant or abandoned;

- (9) Windows or entrances to the property that are boarded up or closed off, or multiple windowpanes that are damaged, broken, and unrepaired;
- (10) Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) A risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (12) An uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (13) The mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (14) A written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (15) Any other reasonable indicia of abandonment.

B. Each block and lot shall be considered a separate property.

§ 249-2. Registration required; period of validity; general regulations. [Amended 12-20-2022 by Ord. O-22-28]

- A. The owner of any vacant property as defined herein shall, within 30 days after the structure becomes vacant property or within 30 days after assuming ownership of the vacant property, or within 10 calendar days after receipt of notice from the Township, whichever is earlier, file a registration statement for each such vacant property on forms or manner provided by the Township for such purposes. The registration shall remain valid for 12 months from the date of registration. The registrant shall be required to renew the registration every year as long as the structure remains vacant property and shall pay a registration or renewal fee in the amount prescribed herein for each vacant property registered. The vacant property registration shall run with the land from the date the property is first determined to be vacant by the municipality.
- B. Any owner of any structure that meets the definition of "vacant property" prior to the effective date of this article shall file a registration statement for that property in accord with Subsection A.
- C. The registrant shall notify the Code Enforcement Office within 10 days of any change in the registration information, including but not limited to change in ownership, by filing an amended registration statement on a form provided by the Code Enforcement Office for such purposes.
- D. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township against the owner or owners of the structure.
- E. Any owner of vacant property who intends to restore the property to occupancy following the initial registration shall file a detailed plan for restoration, returning the property to a habitable condition, on a form issued by the Code Enforcement Office, together with an amended registration statement.
 - (1) During the restoration period, the owner shall be exempt for a period of 12 months from payment of the vacant property registration fee(s), as long as the property is being actively

restored, but shall comply with all other laws, regulations and municipal ordinances. Exception will terminate if the restoration activity ceases.

- (2) In the event the property has not been approved for occupancy at the end of the twelve-month period, the owner shall be liable for any fees waived. The Fire Chief or his/her designee may extend the waiver of the registration fee for not more than one additional twelve-month period in response to a written request, prior to the expiration of the initial twelve-month period, by the property owner where the Fire Chief or his/her designee finds compelling conditions existed outside the owner's control which inhibited the owner from restoring the property within the initial twelve-month period.

§ 249-3. Registration statement requirements; property inspection.

- A. After filing a registration statement or a renewal of a registration statement, the owner or registrant of any vacant property shall provide access to the Township to conduct an exterior and interior inspection of the structure to determine compliance with the Municipal Code, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. **[Amended 12-20-2022 by Ord. O-22-28]**
- B. The registration statement shall include the name, street address and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. This person must maintain an office in the State of New Jersey or reside within the State of New Jersey. The statement shall also include the name of the person responsible for maintaining and securing the property, if different.
- C. An owner who is a natural person and who meets the requirements of this article as to location of residence or office may designate himself or herself as agent.
- D. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered structure by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the Code Enforcement Office of a change of authorized agent or until the owner files a new annual registration statement. The designation of an authorized agent in no way releases the owner from any requirement of this article. **[Amended 12-20-2022 by Ord. O-22-28]**

§ 249-4. Registration fees. [Amended 12-20-2022 by Ord. O-22-28]

The registrant shall pay \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in this article. This vacant property registration fee is separate and distinct from any fee owed because the property is in foreclosure.

§ 249-5. Requirements for owners of vacant property. [Amended 12-20-2022 by Ord. O-22-28]

The registrant of any vacant property, and/or any person or entity maintaining, operating or collecting rent for any such structure that has become vacant, shall, within 30 days from vacancy:

- A. Secure the structure against unauthorized entry for the pendency of vacancy.

- B. Post a sign affixed to the structure indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process and the person responsible for day-to-day supervision and management of the structure, if such person is different from the owner holding title or the authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 18 inches by 24 inches; and the sign shall remain in place for the pendency of vacancy.
- C. Maintain the vacant property for the entire period of vacancy in accordance with all applicable local and state property maintenance codes, ordinances or regulations, building codes, health codes and fire codes pertaining to the exterior condition and appearance of the structure, the safety and structural integrity of the structure, the outdoor portion of the property, the condition and safety of accessory structures on the property, and any conditions on the property which constitute a hazard or adversely affect the health and safety of persons who may have contact with the vacant property.
- D. Promptly repair all broken windows, doors and other openings and unsafe conditions. Boarding up of open and broken windows and doors is prohibited, except as a temporary measure for no longer than 45 consecutive days, which period may be extended at the discretion of the Fire Chief or his/her designee. Boards or coverings must be installed and painted in accordance with Township specifications.
- E. Acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the property registration program, in an amount of not less than \$1,000,000 for any unit or structure, including, but not limited to, residential or structures designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the structure. Any insurance policy acquired or renewed after the structure has become vacant shall provide for written notice to the Fire Chief or his/her designee within 30 days of any lapse, cancellation or change in coverage. The owner shall attach evidence of the insurance to the registration statement. Any registration statement submitted that does not include such evidence of insurance shall not be deemed to be a valid registration.

§ 249-6. Administration. [Amended 12-20-2022 by Ord. O-22-28]

The Fire Chief or his/her designee shall issue rules and regulations for the administration of the provisions of this article.

§ 249-7. Violations and penalties. [Amended 12-20-2022 by Ord. O-22-28]

- A. Any registrant who is not in full compliance with this article or who otherwise violates any provision of this article or of the rules and regulations issued hereunder shall be subject to a fine of not more than \$2,000 for each offense. Each day on which a violation of this article 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 any court of competent jurisdiction may determine. Fines assessed under this article shall be recoverable from the owner and shall be a lien on the property.
- B. For purposes of this section, failure to file a registration statement in accordance with § 249-2 above, knowingly providing misleading or incorrect information on the registration statement, or failure to comply with any provisions of this article shall be deemed to be violations of this article.
- C. Property registration fees imposed pursuant to § 249-1 et seq. of this article shall be considered a municipal charge pursuant to the Tax Sale Law, N.J.S.A. 54:5-1 et seq.

- D. In any case in which the municipality abates a nuisance, corrects a defect, or puts the premises in a condition so as to comply with the requirements of § 249-1 et seq., any municipal ordinance or state law applicable, the cost thereof shall be certified by the ordering municipal official to the governing body, which shall examine such certificate of cost and, if it finds said certificate to be correct, shall cause such cost to be charged against the real estate. The amount so charged shall thereupon become a lien and tax upon said real estate and be added to and be a part of the taxes next to be levied and assessed thereon, and enforced and collected, with interest, by the same officers and in the same manner as other taxes. The imposition and collection of a penalty by any court for violations of the provisions of § 249-1 et seq. or any ordinance or state law shall not constitute any bar to the right of the Township to collect such assessment of costs, as certified, for the necessity to abate a nuisance, defect or remedy necessary to put the premises in proper condition in the manner herein authorized.

§ 249-8. Effect on other laws; interpretation of provisions. [Amended 12-20-2022 by Ord. O-22-28]

Nothing in this article is intended to or shall be read to prevent the Township from taking action against structures found to be unfit for human habitation or unsafe structures, as provided in applicable provisions of the Code of the Township of Montclair, or imposing a lien for costs on any property to the full extent permitted by law, or pursuing any other remedy provided in law. Further, any action taken under any such code provision, other than the demolition of a structure, shall not relieve an owner from its obligations under this article.

ARTICLE II

Abandoned Property List**[Adopted 7-16-2013 by Ord. No. O-13-30]****§ 249-9. Authorization and duties of Township Manager. [Amended 12-20-2022 by Ord. No. O-22-28]**

The public officer that is designated is the Township Manager or his or her designee (both collectively referred to hereafter simply as the "Township Manager"), and he/she is hereby directed to identify abandoned properties within the municipality, place said properties on an abandoned property list established as provided in § 36 of P.L. 1996, c. 62 (N.J.S.A. 55:19-55), as amended by § 28 of P.L. 2003, c. 210, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list as provided by law.

§ 249-10. Report.

The public officer shall provide a report to the Township Manager and governing body every six months with respect to the number and location of properties on the abandoned property list, the status of those properties, and any actions taken by the municipality, or by any qualified rehabilitation entity designated pursuant to the authority granted the public officer, with respect to any property on the list or any other abandoned property within the Township of Montclair.

§ 249-11. Effect on Uniform Construction Code.

No provision hereof shall be construed as restricting or otherwise abrogating the enforcement and other powers of the Township's Construction Code Official under the New Jersey Uniform Construction Code, including, without limitation, N.J.S.A. 52: 27D-123 et seq. and N.J.A.C. 5:23-11 et seq. (collectively, the "Code"). The provisions hereof shall be construed as consistent with the enforcement and other powers of the Township's Construction Code Official under the Code.

§ 249-12. Imposition of liens for cost recovery.

The Township Manager is authorized to impose liens for costs resulting from any action taken by the Township pursuant to this article, subject to the provisions of any law, regulation or ordinance governing the imposition of such liens.

ARTICLE III

Properties Subject to Foreclosure

[Adopted 2-16-2016 by Ord. No. O-16-002; amended in its entirety 12-20-2022 by Ord. No. O-22-28]

§ 249-13. Additional requirements for properties subject to foreclosure.

- A. Any creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the municipality pursuant to Section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51), or Section 2 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s2), register the residential or commercial property with the municipality's property registration program as a property in foreclosure and, as part of that registration, (provide the municipality with the information regarding the creditor required by Paragraph (1) of Subsection a of Section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51), or Paragraph (1) of Subsection a of Section 2 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s2); identify the date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing; and identify whether the property is vacant or abandoned in accordance with the definition in Article I of this chapter.
- B. Any creditor filing a summons and complaint in an action to foreclose on a vacant or abandoned property shall be responsible for the care, maintenance, security, and upkeep of the exterior of the subject property.
- C. The registrant shall pay \$500 per property annually for any property that is required to be registered in accordance with § 249-13 et seq.
- D. If the registered property becomes vacant or abandoned in accordance with § 249-1 et seq. after the property is initially registered with the municipality, an updated property registration must be filed with the municipality to reflect the change in the property's status, and all applicable fees as provided in § 249-4 must be paid.
- E. Any creditor filing a summons and complaint in an action to foreclose on a residential or commercial mortgage shall register with the municipality in accordance with § 249-1 et seq. and pay the registration fee as provided in § 249-4. If located out of state, the creditor shall be responsible for appointing an in-state representative or agent to act for the foreclosing creditor.
- F. Adhere to all requirements of § 249-1 et seq. and all municipal ordinances, state and federal laws, rules, and regulations.
- G. The Manager, or his/her designee or delegate, or any Zoning and Code Enforcement Inspector or any other local official responsible for administration of any property maintenance or public nuisance code (a "public officer") is hereby authorized pursuant to P.L. 1942, c. 112 (N.J.S.A. 40:48-2.3 et seq.), to issue a notice to the creditor filing the summons and complaint in an action to foreclose if the public officer or other authorized municipal official determines that the creditor has violated this article by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property. Such notice shall require the person or entity to correct the violation within 30 days of receipt of the notice or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.
- H. An out of state creditor filing a summons and complaint in an action to foreclose on a vacant or abandoned property shall include the full name and contact information of the in-state representative or agent in the notice required to be provided pursuant to Paragraph (1) of Subsection a of Section 17

of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51).

I. Violations of § 249-13 et seq. are punishable as follows:

- (1) An out of state creditor subject to this article found by the Municipal Court, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-state representative or agent pursuant to this article shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-state representative or agent shall commence on the day after the ten-day period set forth in Paragraph (1) of Subsection a of Section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51), for providing notice to the Municipal Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- (2) A creditor subject to the requirements of this article found by the Municipal Court, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this article shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this subsection shall commence 31 days following receipt of the notice, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

J. All money collected pursuant to this article shall be utilized by the municipality for municipal code enforcement purposes.

PUBLIC LANDS, SALE OF

Chapter 251

PUBLIC LANDS, SALE OF

[HISTORY: Adopted by the Council of the Township of Montclair 3-28-1995 by Ord. No. 95-14. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 202.

Zoning — See Ch. 347.

Subdivision of land — See Ch. 301.

§ 251-1. Permission to sell.

The Township Council or its authorized representative shall be permitted to sell any real property, capital improvements or personal property or interest therein not needed for public use, other than municipal lands or real property otherwise dedicated or restricted pursuant to law, and except as otherwise provided by law in accordance with the procedures and methods described in N.J.S.A. 40A:12-13.

§ 251-2. Notice of sale.

- A. In addition to the requirements of advertising and publication of such sale set forth in the above statute, notice of the sale shall also be given to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions of the property which is intended to be sold and all adjoining property which is under common ownership and whether located within or without this municipality.
- B. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his or her agent in charge of the property or by mailing a copy of the advertisement to bid by certified mail to the property owner at his or her address as shown on said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its President, a Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas.
- C. The requirement of service shall be satisfied by notice to the condominium association, in the case of any unit owner who has a unit above or below it, or horizontal property regime, in the case of any co-owner who has an apartment above or below it.

Chapter 253**PUBLIC RECREATIONAL BATHING**

[HISTORY: Adopted by the Council of the Township of Montclair 6-14-2011 by Ord. No. O-11-36. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and playgrounds — See Ch. 234.

§ 253-1. Adoption of standards.

A code regulating and controlling the location and construction, alteration and operation of public recreational bathing places and the issuance of permits to locate and construct, alter or operate public recreational bathing places and declaring and defining certain public recreational bathing places as nuisances and fixing penalties for violations is hereby adopted pursuant to Chapter 188 of the Laws of New Jersey of 1950 (N.J.S.A. 26:3-69.1 to 69.2).

§ 253-2. Title.

The said code established and adopted by this chapter is described and commonly known as the "New Jersey State Sanitary Code, Chapter IX, Public Recreational Bathing, N.J.A.C. 8:26" (the "State Code"), approved by the New Jersey Department of Health, a copy of which said code is annexed hereto and made a part hereof. All terms used in this Chapter shall have the definitions set forth in the State Code.

§ 253-3. Copies on file.

Three copies of said New Jersey State Sanitary Code, Chapter IX, Public Recreational Bathing, N.J.A.C. 8:26, have been placed on file in the office of the Township Clerk of the Township of Montclair and in the office of the Health Officer of the Township of Montclair upon the introduction of this chapter and will remain on file in said offices for use and examination by the public.

§ 253-4. Permits required.

No person shall locate, construct or alter a public recreational bathing place pool until a permit therefor shall have been issued by the Building Department, and approval of the health authority has been obtained. No person shall operate a swimming pool until a permit therefore shall have been issued by the Health Officer pursuant to the State Code, N.J.A.C. 8:26 — 2.6.

§ 253-5. Fees and charges.

The following fees and charges herewith are established:

- A. For issuance or renewal of a permit to operate a swimming pool: \$200.

§ 253-6. Denial or suspension of permit.

Permits required by this chapter or code may be denied or suspended by the Health Officer for failure to

§ 253-6

PUBLIC RECREATIONAL BATHING

comply with any of the provisions of this chapter or of the code or any other applicable laws, ordinances or regulations. The Health Officer shall afford the person an opportunity to be heard and shall inform said person of his decision as provided by Section 2.4 of the State Code.

§ 253-7. Violations and penalties.

- A. Any person, firm or corporation violating any of the provisions of this chapter or the New Jersey State Sanitary Code, Chapter IX, Public Recreational Bathing, N.J.A.C. 8:26, shall, upon conviction thereof, pay a penalty of not less than \$50 nor more than \$1,000 for each violation.
- B. Each day a particular violation continues shall constitute a separate offense.

MONTCLAIR CODE

Chapter 256

REFRIGERATORS, ABANDONED

[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 Art. IV of Ch. 166 of the 1979 Code. Amendments noted where applicable.]

§ 256-1. Legislative declaration.

It is hereby found and declared that instances have been reported in other municipalities of the death of children from suffocation in abandoned, discarded or unattended iceboxes, refrigerators and similar containers having airtight doors which, when closed, cannot be opened from the inside, and that such abandoned, discarded or unattended iceboxes, refrigerators or similar containers constitute a serious and constant menace to the health, welfare and safety of the children in the Township.

§ 256-2. Abandonment prohibited; removal of locks.

It shall be unlawful for any person to leave within or without any building in the Township, in a place accessible to children, any abandoned, discarded or unattended icebox, refrigerator or similar container of any kind which has a locking or closing device thereon that cannot be released for opening from the inside of such icebox, refrigerator or similar container; provided, however, that this section shall not apply if such closing or locking device or the door or doors from such icebox, refrigerator or similar container are first removed.

§ 256-3. 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.

Chapter 257**RENT REGULATION**

[HISTORY: Adopted by the Council of the Township of Montclair 4-19-2022 by Ord. No. O-22-05¹⁴⁰. Amendments noted where applicable.]

§ 257-1. Findings.

- A. Approximately 40% of the residents of the Township of Montclair live in rental housing units ranging from single-family houses to multiple dwellings of more than 100 apartments; and
- B. The rapid upsurge in the demand in the housing market for rental apartments has resulted in a substantial increase in rents, causing and threatening to cause the dislocation of tenants unable to adjust to the higher rents; and
- C. The governing body finds that intervention in the market is necessary to allow for a more gradual and orderly transition to higher rent levels without disruption of existing tenants, to maintain a supply of relatively affordable housing, and to moderate rental increases after the effective date of this chapter.

§ 257-2. Applicability; exceptions.

- A. Applicability. The terms of this chapter apply to individual dwelling units within a building rather than to an individual tenant occupying a dwelling unit. An agreement for occupancy of the dwelling unit shall not circumvent the application of this chapter by titling the agreement as other than a lease, such as, but not limited to a use and occupancy agreement.
- B. Exceptions. This chapter shall not apply to:
 - (1) Units in buildings in which the owner resides that contain three or fewer residential units.
 - (2) Units for which the amount of rent is determined as a function of household income by a government program.
 - (3) Motels, hotels, and similar type buildings intended for transient use, floor space used strictly for commercial purposes in any type building, including state-licensed rooming houses.
 - (4) Dwelling units rented for the first time after the adoption of this chapter are exempt, and the initial rent may be determined by the landlord, but all subsequent rents shall be subject to the provisions of this chapter.
 - (5) Dwelling units exempted by state or federal law.
 - (6) Housing provided for students by a school, college, or similar institution which owns and/or controls that housing.
 - (7) Single-family homes, single condominiums units, and single co-operative units.
- C. Establishment of base rent. All rents established by landlords and tenants as of the effective date of this chapter, and any subsequent permitted increase which by its terms becomes part of the base rent, shall represent the base rent from which permitted increases are calculated.

140.Editor's Note: This ordinance also repealed former Ch. 257, Rent Regulation, adopted 4-7-2020 by Ord. No. O-20-05

§ 257-3. Definitions.

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

AVAILABLE FOR RENT TO TENANTS — A dwelling unit is fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the Township, and is occupied, or unoccupied and being offered for rent.

BASE RENT — The rent is as defined in the lease between the landlord and tenant that was charged as of the effective date of this chapter except as follows:

- A. For any dwelling unit where the landlord collected an increase in rent from an existing tenant on or after May 1, 2020, the base rent shall be the rent in effect as of May 1, 2020;
- B. For any dwelling unit where the landlord provided notice of a rent increase to an existing tenant but did not collect such increase on or after May 1, 2020, or did not otherwise seek or collect any increase from an existing tenant on or after May 1, 2020, the base rent shall be the rent in effect as of May 1, 2020; and
- C. For any dwelling unit that became vacant since May 1, 2020, the base rent shall be the rent in effect as of the effective date of this chapter.
- D. A landlord can request a rent increase on covered units once every 12 months in an amount not to exceed 4% (or 2.5% for seniors 65+) provided the unit is in substantial code compliance with the applicable building laws and is properly registered with the Rent Control Office. The base rent plus the allowable rent increase will become the new base rent. **[Added 5-23-2024 by Ord. No. O-24-13]**

BOARD — The Rent Control Board.

DWELLING — Any building or structure rented or offered for rent to one or more tenants or family units. Furnished rooms are subject to the terms of this chapter notwithstanding the fact that furniture is provided by the landlord and/or rent is paid on a weekly or biweekly basis.

DWELLING UNIT — Any unit used for residential rental purposes.

HOUSING SPACE —

- A. That portion of a dwelling rented or offered for rent for living and dwelling purposes to one individual or family unit, together with all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with the use or occupancy of such portion of the property.
- B. Includes a garage, carport or parking space, which garage, carport, or parking space is included in the agreement for the rental of housing space.

JUST CAUSE FOR EVICTION — That the landlord recovered possession of a housing space or dwelling for one of the reasons and in accord with the procedures set forth in N.J.S.A. 2A:18-61.1, as amended.

LANDLORD — As used in this chapter, the person who owns or represents the ownership of any building, structure or complex of buildings or structures in which there is rented or offered for rent housing space for living or dwelling purposes.

LIVING AREA — The amount of total rentable space applicable to any given housing space, measured either in terms of rooms or square footage.

MAINTENANCE COSTS — Maintenance costs include, but are not limited to, real estate taxes, utility expenses, insurance costs, management fees, expenses for repairs, upkeep and maintenance respecting a dwelling unit, but shall not include principal or interest payments on any blanket encumbrance or other

mortgage or encumbrance.

MAJOR CAPITAL IMPROVEMENT — An addition to the dwelling or housing space units that inures to the benefit of the tenant, that was not previously provided or required to be provided by law or lease, that materially adds to the value of the dwelling or housing space and prolongs its life, and that must not be upkeep, maintenance, repairs, rehabilitation or replacement of items or services.

MAJOR ADDITIONAL SERVICES — An addition to the dwelling or housing space units that inures to the benefit of the tenant, that was not previously provided or required to be provided by law or lease, that materially adds to the value of the dwelling or housing space and prolongs its life, that includes a substantial increase in services, furniture, furnishings or equipment provided to tenants since the date of the most recent rent increase under any section of this chapter, and that must not be upkeep, maintenance, repairs, rehabilitation or replacement of items or services.

MONTHLY MAINTENANCE CHARGE — The annual maintenance costs divided by 12.

PERIODIC TENANT — All tenants, including monthly tenants, who do not have a written lease.

RENT — The consideration demanded or received in connection with the use or occupancy of housing space, including, but not limited to, parking, pets, facilities, privilege services, equipment, furnishings, or any charge, no matter how set forth, paid by the tenant in connection with the housing space.

RENT INCREASE, DECREASE OR ADJUSTMENT — The notice forwarded by the landlord to the tenant, or by the tenant to the landlord, by letter or in any other form, setting forth the proposed amount of rent increase, rent decrease or other rent adjustment. Each such notice shall state in detail the reasons justifying or requiring the rent increase, rent decrease or other rent adjustment.

RENTAL STATEMENT — The statement which the landlord shall be required to sign and deliver to the tenant, when requested by the tenant, and vice versa, describing the housing space rented, the related services and equipment involved, whether such include the use of the basement, garage, clotheslines, washing utilities, heat, hot water, garbage removal, repairs, maintenance and the like, and the base rent and charge.

RESALE — Resale of a dwelling unit means any sale subsequent to the original sale thereof.

OFFICER — The Rent Control Board Officer.

SERVICES — The provision of light, heat, hot water, maintenance, painting, elevator service, air conditioning, storm windows, screens, superintendent service and any other benefit, privilege or facility connected with the use or occupancy of any dwelling or housing space.

SUBSTANTIAL CODE COMPLIANCE — Substantial compliance means that the housing space and dwelling units are free from all heat, hot-water, elevator and all health, safety, and fire hazards as well as 90% qualitatively free of all other violations of the Montclair Property Maintenance Code, Montclair Code Chapter 190 and the Regulations for Construction and Maintenance of Hotels and Multiple Dwellings promulgated by the State Department of Community Affairs, N.J.A.C. 5:10-1.1 et seq., and other applicable ordinances of the Township of Montclair. **[Amended 5-23-2024 by Ord. No. O-24-13]**

UNINHABITABLE BUILDING — A structure which is completely vacant and unfit for human habitation as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Essex, and Township of Montclair.

§ 257-4. Rent Control Board.

A. Established. A Rent Control Board (the "Board") is established in the Township of Montclair.

B. Composition; terms.

- (1) The Board shall consist of seven members who shall be appointed by the governing body by resolution. The members shall be comprised of three tenants and one homeowner who is neither a landlord or tenant, and three landlords who shall reside or own property covered by this chapter. For reasons of continuity and in the best interests of the public, the terms of the first members appointed pursuant to this subsection shall be staggered terms of one-, two-, three-, and four-year term appointments, with three members receiving four-year terms. Thereafter the term of office of the members of the Board shall be for four years each.
- (2) In addition to the seven regular members, the governing body shall appoint two alternate members to the Board. The alternate members shall be one landlord who resides in or owns property covered by this chapter and one tenant, who resides in Montclair and does not own property covered by this chapter. The term of an alternate member shall be two years. An alternate member shall be entitled to sit with, and participate as a member, in any meeting of or hearing before the Board. An alternate member who has attended the full hearing or hearings on a specific matter may vote upon any determination made during the absence or disqualification of any regular member.
- (3) Members of the Board shall serve without compensation.

C. Disqualification of member. No member or alternate member of the Board shall be permitted to act on any matter in which that individual has, either directly or indirectly, any personal or financial interest.

D. Powers of Board. The Board is hereby granted and shall have and exercise all the powers necessary and appropriate to carry out and execute the purposes of this chapter, including, but not limited to, the following:

- (1) To issue and promulgate such rules and regulations as it deems necessary to implement the purpose of this chapter, including, but not limited to, the use of subpoenas, which rules and regulations shall have the force of law until revised, repealed or amended, providing that such rules are filed with the Township Clerk.
- (2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.
- (3) To hold hearings and adjudicate applications from landlords for major capital improvement or major additional service surcharges and for hardship rent increases, as herein provided.
- (4) To hold hearings and adjudicate applications from tenants for rent reductions based on a decline in services, as herein provided.
- (5) To hear and adjudicate appeals from determinations of the Rent Control Officer.
- (6) To approve and accept a settlement or other agreement on the subject matter of a dispute between a landlord and tenant.
- (7) To require a landlord to produce for examination his/her books, records, tax returns, balance sheets, profit and loss statements and such other records, as appropriate, as the Board may require in connection with any application and related hearing, proceeding or purpose, as set forth herein.

- (8) Upon an application by a landlord or tenant or upon its own motion, to set a date for a hearing, consider proofs and grant, deny, modify, or otherwise adjust all rentals, by increasing or decreasing same, and the Board may make such determinations as to conditions, services, equipment, terms and related matters pertaining to rentals and controlled premises as may be warranted within the intent and purview of this chapter and applicable state laws.

E. Meetings of Rent Control Board.

- (1) The Rent Control Board shall have three regularly scheduled meetings per year. The first scheduled meeting shall be the organizational meeting. The first organizational meeting of the Rent Control Board shall be held on a Wednesday evening at 7:00 p.m. and shall be no more than 45 days or less than 30 days after the enactment of the ordinance.
- (2) At its organizational meeting, the Board shall elect a Chairman and a Vice Chairman. The Chairman shall preside over all meetings of the Board and exercise all of the powers of the Chairman; provided, however, that in the absence, disqualification or abstention by the Chairman, the Vice Chairman shall have all of the powers of the Chairman.
- (3) The remaining two regularly scheduled annual meetings shall be held on the second Wednesday at 7:00 p.m. in May, and the second Wednesday at 7:00 p.m. in September. If the first organizational meeting is held in the month of May or September in the initial year of the enactment of the ordinance, the Board, at its discretion, shall only be required to have two regular meetings. At these meetings, the Board shall:
 - (a) Issue and promulgate such rules and regulations, as it deems necessary, to implement the purposes of this chapter which rules and regulations shall be promptly filed with the Township Clerk.
 - (b) Review, at least once annually, any additions, amendments, or recommendations regarding the ordinance to the Township Council, as it deems necessary and appropriate.
 - (c) Consider such matters as the Board deems necessary and appropriate to carry out its responsibilities. **[Amended 5-23-2024 by Ord. No. O-24-13]**
- (4) All other meetings of the Board shall be in order to hold hearings on any appeals from the Rent Control Officer, and to conduct hearings for major capital improvement and major additional service surcharge applications, hardship rent increase applications, and decline in service application. Such meetings, if any, shall be held on the second Wednesday of each month at 7:00 p.m., or on such date and times as mutually agreed by all parties, in accord with the notice provisions established under this chapter.
- (5) The Board may schedule any other meetings on the second Wednesday of the month, at 7:00 p.m., upon proper notification as required by law, as it deems necessary to carry out its responsibilities.

F. Quorums. A quorum for a hearing shall consist of four members or alternate members, and a majority of those present shall be authorized to render determinations pursuant to and consistent with the powers and functions of the Board. **[Amended 5-23-2024 by Ord. No. O-24-13]**

§ 257-5. Board staff.

A. Rent Control Officer; qualifications and duties.

- (1) Position created. There is hereby created the position of Rent Control Officer in the Office of the Township Manager, to be appointed by the Manager and compensated as provided in the then-current salary ordinance. **[Amended 5-23-2024 by Ord. No. O-24-13]**
- (2) Qualifications. The Rent Control Officer shall be appointed by the Manager.
- (3) Duties. The duties of the Rent Control Officer shall be as follows:
 - (a) To obtain, keep and maintain all relevant records and other data and information, all of which shall be available for inspection and copying upon request.
 - (b) To supply information and assistance to landlords and tenants and to bring together tenants and landlords in formal conferences and suggest resolutions of conflicts between them in order to assist them in complying with the provisions of this chapter.
 - (c) To ensure compliance by the landlord and tenants with the provisions of this chapter.
 - (d) To remedy violations of this chapter and bring appropriate legal charges as provided by this chapter, when appropriate.
 - (e) To accept, process, investigate and determine complaints from tenants and landlords regarding calculations of annual rentals and increases and/or vacancy decontrol allowances.
 - (f) To collect and maintain accurate rent registration statements in accord with this chapter.
 - (g) To prepare forms as appropriate for the filing of complaints to be heard before the Rent Control Officer.
 - (h) To attend all meetings of the Rent Control Board.
 - (i) To perform such other duties as the Rent Control Board may specifically direct and as allowed by this chapter.

B. Rent Control Administrator; qualifications and duties. [Added 5-23-2024 by Ord. No. O-24-13]

- (1) Qualifications and duties are in the job description at the Department of Human Resources.
 - (a) To assist the Rent Control Officer in the operations and overall management of the office.
 - (b) To perform such other duties as the Rent Control Board may specifically direct and as allowed by this chapter.

§ 257-6. Determinations of Rent Control Officer; appeals to the Rent Control Board.

- A. Upon receipt of a complaint, upon such forms as provided, if any, and filed with the Rent Control Officer regarding its responsibility under § 257-5 to hear and render determinations thereunder, the Rent Control Officer shall conduct meetings with landlords and tenants, upon 20 days' notice to the affected parties, and request any additional documents, as it deems necessary, to render a determination.
- B. The determination of the Rent Control Officer shall be in writing no later than 20 days from receipt of any and all documents requested by the Rent Control Officer. The determination shall be provided to all parties by the Rent Control Officer by regular and certified mail, return receipt requested.

C. Appeal from determination of Rent Control Officer to the Rent Control Board.

- (1) Either the landlord or tenant may appeal the decision of the Rent Control Officer to the Rent Control Board. The appeal shall be filed with the Rent Control Officer no later than 20 days from the date of mailing of the determination by the Rent Control Officer. The appeal shall set forth in detail the grounds for the appeal, upon forms provided by the Rent Control Officer and/or Board, if any, and the required fee, if any.
- (2) Simultaneously with filing the appeal, the appealing party shall serve notice on the nonappealing party, by regular and certified mail, informing the nonappealing party that the appeal and all supporting documents are available for inspection at the Rent Control Office, and shall provide proof of service with the Rent Control Officer.
- (3) Upon receipt of the completed appeal, the Rent Control Officer shall promptly transmit the notice of appeal and all documentation to the Rent Control Board and secure a date for the appeal before the Rent Control Board. Such date shall be transmitted to the affected landlord and tenants by the Rent Control Officer by regular and certified mail.
- (4) The appeal shall be placed upon the Rent Control Board agenda at the earliest convenient date for determination in accord with the Rent Control Board meeting schedule.
- (5) During the pendency of the appeal, the rent for the subject unit shall be the rent as established by the Rent Control Officer.

§ 257-7. Professional services regarding applications before the Rent Control Board.

- A. Retention of professional services. In the event the Rent Control Board determines that a landlord's or tenant's application for relief contains calculations, or any other issues deemed by the Board to be of a complex nature, then the Board, in the interest of fairness and efficiency, may determine that the services of professional experts are required to assist the Board in evaluating and processing the application.
- B. Estimate of fee. Should the Board determine that professional assistance is required, then the Board shall forthwith send a copy of the application and supporting documents to any professional expert retained to assist the Board in evaluating and processing the application. Within five days of receipt thereof, the professional expert shall submit to the Board and to the applicant an estimate of funds necessary to undertake the professional services to be rendered.
- C. Escrow funds. The applicant shall forthwith deposit such funds in an escrow account maintained by the Township. The professional expert shall submit vouchers for all reasonable and necessary fees for the professional services rendered, which fees shall be paid from the escrow account in the manner prescribed by N.J.S.A. 40A:5-16 through 40A:5-18 and the ordinances of the Township. The professional expert, at the time of submission of any such voucher, shall forward a copy of same to the applicant.
- D. Appeal of fee. In the event that the applicant questions the reasonableness of any such voucher, the applicant may make written protest of such voucher to the Board. In no event shall the Board authorize the payment of any voucher submitted pursuant to this section sooner than 10 days after its submission. Any of the aforesaid moneys which are left in the escrow account upon completion of the application shall be returned to the applicant after the Board reaches its decision. Should additional funds be required after the original funds are exhausted, such funds as shall be necessary in the judgment of the Board shall be paid by the applicant to the Township and placed in the escrow

account.

- E. Action upon application. The Board shall take no formal action on any application unless and until all escrow funds have been deposited with the Township, and any time limitations set forth in this chapter shall be extended until all such escrow funds are deposited with the Township.

§ 257-8. Hearings/determinations by the Rent Control Board; appeals to Superior Court.

- A. Opportunity to be heard. Upon receipt of a complaint, upon such forms as provided, if any, and fee, if any, to hear and render determinations under hardship under § 257-9, capital improvement under § 257-10, decline in services thereunder, and under § 257-6, appeals from determinations of the Rent Control Officer, all interested persons shall be given the opportunity to be heard, with or without counsel, except that the Board, in its discretion, may limit repetitious testimony or ask that a spokesperson for the tenants be appointed. A tenant and/or tenant association may elect to name a spokesperson to act on its behalf. The Board shall base its decision upon the record of information provided to and considered by the Rent Control Officer in determining whether the decision of the Rent Control Officer was inconsistent with this chapter. The Board shall have the discretion to request the submission of additional information from either the landlord or the tenant if that information is required to resolve the appeal. **[Amended 5-23-2024 by Ord. No. O-24-13]**
- B. Decisions by the Board/service. The Board shall be required to render its determinations, in writing, within 30 days of the final hearing date, which written decision shall be provided to the landlord immediately by regular and certified mail. Upon receipt, the landlord shall post a notice in a conspicuous place in the building stating that the Board has rendered a written decision, which decision is available at the Rent Control Office. The landlord shall further transmit the decision to all affected tenants by regular and certified mail within five days of receipt of the decision. Simultaneously therewith, the landlord shall provide the Board with proof of service upon the tenants by regular and certified mail.
- C. Additional hearings. If any additional hearing, after the initial hearing, is necessary, the Board shall so notify the landlord within 20 days of the initial hearing. A copy of the notice of hearing shall be posted conspicuously in the lobby of the building. The landlord shall serve notice of the hearing date to the tenant, by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing.
- D. Appeals. Either the landlord or a tenant may appeal the decision of the Rent Control Board. All decisions of the Board are final. Any landlord or tenant wishing to appeal the decisions of the Board may do so in the Superior Court of New Jersey pursuant to its rules and procedures. An appeal to the Superior Court of New Jersey from a determination of the Rent Control Board are required to be filed with the Court within 45 days of the final determination of the Board.
- E. During the pendency of an appeal, any increase granted by the Board to be paid to the landlord by the tenant shall be effective as of the statutory thirty-day notice as required by law. In the event that the Board decision is reversed, all such increases paid by the tenant shall be promptly refunded or credited to the tenants' monthly rent obligation.

§ 257-9. Permitted increases.

- A. Rent control established. All dwelling units, unless otherwise specifically exempt, shall be subject to the provisions of this chapter. From and after the effective date of this chapter, no landlord shall charge any rent in excess of the base rent, as defined herein, except for such increases to said based

rent as are authorized under this chapter. Any excess base rent and any rent increase not in accord with the provisions of this chapter are void, of no force and effect, and shall be refunded or credited to the tenant.

B. Annual increases in base rent for covered units.

- (1) In the event that a landlord of a dwelling unit covered by this chapter did not collect an increase on an existing tenants' annual rent since May 1, 2020, that landlord may increase the base rental amount, on a one-time basis, up to a maximum permissible 6% in lieu of the 4% in Subsection B(2) below, subject to the requirement to notify the tenant consistent with state law. This provision shall not apply to tenants covered by Subsection B(3) below.
- (2) With the exception of the one-time annual increase to base rent increase set forth in Subsection B(1) above, the maximum permissible annual rent increase on a dwelling unit is 4.00% of the base rent, which increase may be charged no more than once in any twelve-month period, subject to the requirement to notify the tenant consistent with state law. This provision shall not apply to tenants covered by Subsection B(3) below.
- (3) In any dwelling unit in which at least one tenant is 65 years of age or older, the maximum annual permissible base rent increase is 2.5% of the base rent, subject to the requirement to notify the tenant consistent with state law.
- (4) The landlord shall serve a notice of said annual increase upon the tenant which shall include:
 - (a) The monthly base rent prior to the increase.
 - (b) The amount of any previously granted and then-effective surcharge and the specific total time period covered by the surcharge.
 - (c) The monthly base rent after the increase.
 - (d) The effective date of the increase.
- (5) The notice shall contain a certification from the landlord that the affected dwelling and units therein are in substantial compliance, as defined herein, with the health, safety and housing laws, codes and regulations of the Township and applicable laws.
- (6) The annual increase in base rent hereunder shall become effective upon service by the landlord of the statutory thirty-day notice as required by law. Any prior notice for an increase beyond that permitted in the base rent section shall be inoperative.
- (7) A tenant may file a complaint objecting to the annual increase in base rent within 90 days of receiving notice of the proposed annual increase asserting that the increase is in excess of the allowable increase permitted under the ordinance. In such instance, the Rent Control Officer shall review the proposed increase and determine within 10 days whether the rent increase exceeds the amount of permitted annual increase. If it is determined that the increase amount was in excess of the amount permitted by this chapter, then the base rent and rent being charged shall be modified accordingly, and any overpayment or underpayment shall be corrected by crediting, refunding, or payment as elected by the tenant.
- (8) A tenant may file a complaint objecting to the accuracy of the certification of substantial compliance submitted with the annual increase. In such instance, the Rent Control Officer shall conduct a hearing in accord with the provisions of § 257-6. In the event the tenant is successful,

the annual rent increase shall be deemed null and void, the annual increase in rent paid shall be credited to the tenant's rent, and no increase shall be permitted thereafter until the landlord is in substantial compliance.

C. Hardship increase.

- (1) This subsection applies where the annual operating expenses for any one building exceed at least 65% of the total annual gross income. Operating expenses shall include all reasonable expenses necessary to carry out the proper operation and maintenance of the property, including property taxes allocated to the year. Operating expenses shall exclude mortgage amortization, mortgage interest, interest or costs of financing, attorney's, expert's, or engineer's fees related to the filing of hardship or capital improvement applications, depreciation, or expenditures for capital improvements. In reviewing operating expenses, the Board shall consider normal and recurring expenses and may make adjustments for extraordinarily high or low operating expenses in any given year. Annual gross income shall include all income realized in connection with the operation of the premises, including rentals from all residential and commercial units, as well as fees collected for parking, rental from machines, concessions and garages or other services.
- (2) In considering a hardship application, the Board shall give due consideration to any and all relevant factors, including, but not limited to, the following:
 - (a) The level and quality of service rendered by the landlord in maintaining and operating the building.
 - (b) The presence or absence of reasonable, efficient, and economic management. Total management fees may not exceed 6%.
- (3) An applicant for hardship relief shall submit to the Board 10 copies of the following:
 - (a) A statement for three prior twelve-month periods of gross rentals and actual expenses incurred for that time in connection with the operation of the building to be adjusted to reflect the actual period of time the applicant has owned the building if owned for less than three years.
 - (b) A list of all present owners of the property.
- (4) A landlord shall not be entitled to apply for a hardship increase until (s)he has owned the property for at least 18 months.
- (5) The Board's decision shall become effective after service of the thirty-day statutory notice to tenants.
- (6) The Board shall promulgate rules, regulations, and necessary forms to be utilized, notice to tenants of hardship applications and notice to tenants and landlords regarding hearings and general procedure. Those rules and regulations shall have the force of the law and shall be filed with the Township Clerk.
- (7) With the filing of a hardship increase application, the landlord shall simultaneously deliver notice thereof to each affected tenant. At a minimum, the notice by the landlord, which shall be transmitted by regular and certified mail, return receipt requested, must provide tenants with a summary of the application and state the increase sought. The notice shall also inform the tenant that all documents submitted in support of the application are available for inspection and

copying during regular business hours at the office of the Rent Control Officer. Any tenant who receives such notice shall have 30 days to file any written comments with the Board regarding the application.

- (8) To be deemed a complete application, the landlord shall submit a letter from the appropriate Township department stating whether the subject building satisfies the substantial code compliance provision, as defined in this chapter. A letter that the property does not satisfy the substantial code compliance provision herein shall detail the conditions upon which the letter is based. Either landlord or tenant may seek the intervention of the Rent Control Officer in the event assistance is needed to secure a timely letter from the appropriate Township department.
 - (9) Notice of hearing. Within 30 days of receipt of a complete application, the Rent Control Officer shall notify the landlord, in writing, of the time and place for the hearing. The hearing shall be held not more than 60 days, nor less than 30 days, from the date of receipt of a complete application. The landlord shall immediately, upon receipt of such notification of hearing, post the date of the hearing in a conspicuous place in the dwelling and shall further serve such notice upon each affected tenant by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing. Prior to any hearing on such application, the landlord shall present the Board with proof of posting and service of notice to each affected tenant.
 - (10) No hardship application shall be considered or granted by the Board for a period of time more than one year after the expiration of applicant's last tax reporting year.
 - (11) Decision/service. The Board shall render a decision on a hardship application within 30 days of the conclusion of the hearing before the Board and shall immediately provide a copy of same to the landlord by regular and certified mail. Failure of the Board to render its decision within the time period, absent consent of the landlord, shall result in the application being deemed granted. **[Amended 5-23-2024 by Ord. No. O-24-13]**
 - (12) Service of decision. Upon receipt of the decision, the landlord shall post and serve notice of the decision in accord with § 257-8B.
 - (13) Any hardship increase granted by the Board shall become effective upon service by the landlord of the statutory thirty-day notice as required by law.
 - (14) The hardship increase shall become part of the base rent.
- D. Major capital improvement or major additional services surcharge.
- (1) This subsection applies where the landlord has made a major capital improvement or major additional service in accord with the definitions set forth in this chapter.
 - (2) In considering a major capital improvement or major additional service application, the Board shall give due consideration to:
 - (a) The benefit to the affected tenants.
 - (b) The actual life expectancy of the improvement.
 - (3) An applicant for relief shall submit to the Board 10 copies of the following:
 - (a) A detailed contract or proposal and proof of payment as to each improvement/service.
 - (b) A proposed actual life recommendation and calculation for amortization, which final

determination shall be made by the Rent Control Board.

- (4) With the filing of a major capital improvement application or major additional services application, the landlord shall simultaneously deliver notice thereof to each affected tenant. At a minimum, the notice by the landlord seeking a major capital improvement or major additional service surcharge, which shall be transmitted by regular and certified mail, must provide the tenants with a summary of the application and state the increase sought. The notice shall also inform the tenant that all documents submitted in support of the application are available for inspection and copying during regular business hours at the office of the Rent Control Officer. Any tenant who receives such notice shall have 30 days to file any written comments with the Board regarding the application.
- (5) To be deemed a complete application, the landlord shall submit a letter from the appropriate Township department stating whether the subject building satisfies the substantial code compliance provision, as defined in this chapter. A letter that the property does not satisfy the substantial code compliance provision herein shall detail the conditions upon which the letter is based. Either landlord or tenant may seek the intervention of the Rent Control Officer in the event assistance is needed to secure a timely letter from the appropriate Township department.
- (6) Notice of hearing. Within 30 days of receipt of a complete application, the Rent Control Officer shall notify the landlord, in writing, of the time and place for the hearing. The hearing shall be held not more than 60 days, nor less than 30 days, from the date of receipt of a complete application. The landlord shall immediately, upon receipt of such notification of hearing, post the date of the hearing in a conspicuous place in the dwelling and shall further serve such notice upon each affected tenant by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing. Prior to any hearing on such application, the landlord shall present the Board with proof of the posting and service of notice to each affected tenant.
- (7) The Board shall promulgate rules, regulations, and necessary forms to be utilized, notice to tenants of major capital improvement and/or major additional services applications and notice to tenants and landlords regarding hearings and general procedure. Those rules and regulations shall have the force of the law and shall be filed with the Township Clerk.
- (8) No major capital improvement or major additional services application shall be considered or granted by the Board for work completed more than one year before the date of filing the application with accompanying letter of substantial code compliance from the appropriate Township departments. **[Amended 5-23-2024 by Ord. No. O-24-13]**
- (9) Finding of improvement/additional service; apportionment of surcharge. Upon determination that the proposed improvement is a major capital improvement or that the proposed service is a major additional service as defined in this chapter, the Board may grant a surcharge based upon the cost of the major capital improvement or major additional service. These costs shall include reasonable interest thereon, if any. Any surcharge granted by the Board shall be fairly apportioned among the affected units based on the size of the dwelling units and the benefit of the improvement to each dwelling unit.
- (10) Permits, as required by law, are to be secured from all agencies having control and jurisdiction for alterations, repairs, replacements, extensions, and new buildings. All work done shall adhere to appropriate code standards and shall be inspected by any agency having control and jurisdiction, and their approval obtained. Copies of such permits shall accompany any major capital improvement and major additional service application.

- (11) Decision. The Board shall render a decision on the major capital improvement/major additional service surcharge application within 30 days of the conclusion of the hearing before the Board. Failure of the Board to render its decision within the time period, absent consent of the landlord, shall result in the application being deemed granted. **[Amended 5-23-2024 by Ord. No. O-24-13]**
- (12) Service of decision. Notice of the decision shall be posted and served by the landlord in accord with § 257-8B.
- (13) The surcharge hereunder, if granted by the Board, shall become effective upon service by the landlord of the statutory thirty-day notice as required by law.
- (14) Any surcharge hereunder shall not become part of base rent, shall not be included in calculating the annual rent increases allowable under § 257-9, and shall expire at such time as the cost of the improvement, plus reasonable interest, have been covered by the surcharge, which shall be determined by the Board as part of its decision.
- (15) Protected tenancy status.
 - (a) No major capital improvement or major additional service surcharge shall be imposed upon any tenant who has been granted protected tenant status pursuant to N.J.S.A. 2A:18-61.22 or 2A:18-61.40.
 - (b) Any major capital improvement or major additional service surcharge awarded within two years prior to the date of notice to the municipal administrative officer required by N.J.S.A. 2A:18-61.27 or 2A:18-40 shall immediately become null and void upon the grant of protected tenancy status. The protected tenant's rent shall be recalculated and reduced accordingly; however, no rebate of previously paid surcharge shall be granted.

E. Maximum annual increase.

- (1) The maximum annual increase from all sources listed under this § 257-9, Permitted increases, shall not exceed 15%.

F. Substantial compliance with housing and building codes. No hardship increase and/or major capital improvement/major additional services surcharge shall be permitted if the building or grounds is not in substantial compliance with the applicable building codes as set forth in this chapter.

G. Legal rent calculation. A tenant may request a legal rent calculation. In calculating the maximum legal base rent, the Rent Control Officer and the Board shall allow all annual rent increases to the base rent that may have been applied to an apartment, whether actually charged or not. The landlord shall not, however, be permitted to increase the rent for a tenant on account of any voluntary rent reduction or the forbearance of any otherwise permissible rent increase for said tenant.

§ 257-10. Maintenance of services.

- A. Continuation of services. During the term of the lease, the landlord shall maintain the same standards of service, maintenance, furniture, furnishings, and equipment in the housing space and dwelling as previously provided or required under the lease or otherwise mandated by law.
- B. Decline in services. When services, care, or maintenance, or when the standards of service, maintenance, furniture, furnishings and equipment in the housing space or dwelling are not substantially maintained as previously provided or required under the lease or otherwise mandated by

law as specified above, any tenant or tenant group may apply to the Rent Control Board for a decrease in rent. The Rent Control Board shall determine the value of the decline in service and adjust the tenant's/tenants' rent accordingly for the time period of the decline. **[Amended 5-23-2024 by Ord. No. O-24-13]**

- C. Applicability to parking spaces. The provisions of this section shall also apply to any on-site parking or garage space occupied by the tenant in conjunction with rental and occupancy of housing space. If it is determined, after a hearing of the Board, as described herein, that the parking was a previously provided service, then the rent shall be decreased by the cost of the parking. The tenant shall provide proof of the cost of the parking that the tenant has incurred. This proof shall be included with the request for a reduction in rent.
- D. Notice of hearing. Within 30 days of receipt of a complete application, the Rent Control Officer shall serve notice on the landlord and the complaining tenant/tenant group, in writing, of the time and place for the hearing scheduled before the Board. The notice shall inform the parties that all documents submitted in support of the application are available for inspection and copying during regular business hours at the office of the Rent Control Officer. The landlord shall have 30 days to file any written comments with the Board regarding the application. The hearing shall be held not more than 60 days, nor less than 30 days, from the date of receipt of a complete application. If the complaint is on behalf of a tenant group for all units in the dwelling, the complainant shall post the date of the hearing in a conspicuous place in the dwelling.
- E. Hearing. At the hearing, the Board may consider the extent to which the conditions complained of impact the health, safety and welfare of the tenants, the duration of the conditions complained of, whether the conditions violate any provision or standards of the Township's property maintenance, building, health or other applicable codes, the corrective action, if any, taken by the landlord, and any other factors the Board deems relevant.
- F. Utilities. During a tenant's occupancy of a unit in which the landlord provides utilities to the units of the building, the landlord will be prohibited from constructing a separate apartment unit meter and billing for any utility service previously provided by the landlord as part of the services to the building, including, but not limited to, heat, hot water, water, and sewerage.
- G. Decision. The Board shall render a decision for a rent reduction, if any, within 30 days of the conclusion of the hearing before the Board, which decision shall be in writing. In rendering its decision, the Board shall set the amount of the deduction and the effective date of the deduction.
- H. Period of time of deduction. The deduction, if any, shall remain in effect until the landlord proves to the Rent Board that the standards have been restored, or until such time as the Rent Board deems appropriate, but no earlier than the date upon which the landlord has filed written notification with the Rent Control Officer that the standards have been restored.
- I. Service of notice of decision. If the decision affects a single dwelling unit, then the Rent Control Officer shall serve a copy of the decision on the affected tenant and the landlord by regular and certified mail within five days of the decision. If the decision affects more than a single dwelling unit, the decision shall be provided to the landlord immediately by regular and certified mail. Upon receipt, the landlord shall post a notice in a conspicuous place in the building stating that the Board has rendered a written decision, which decision is available at the Rent Control Office. The landlord shall further transmit the decision to all affected tenants by regular and certified mail within five days of receipt of the decision. Simultaneously therewith, the landlord shall provide the Board with proof of service upon the tenants by regular and certified mail.

§ 257-11. Parking.

- A. Any parking provided to a tenant by a third party unrelated to the landlord and negotiated between the tenant and said third party separately from the apartment rental and outside the apartment rental location is not covered by this chapter.
- B. Any parking provided by the landlord or anyone related to the landlord, rented in conjunction with the apartment rental to the tenant, whether or not billed separately, is covered by this chapter and increases thereon may not exceed the amount permitted under the ordinance.
- C. Notwithstanding anything in this chapter or the language in any lease, no charge for parking may be treated as additional rent in any action brought under N.J.S.A. 2A:18-61.1 involving nonpayment of rent.

§ 257-12. Vacancy allowance.

- A. Notwithstanding any limitations on permissible rent increases under any other provisions of this chapter, upon the voluntary uncoerced vacation of any apartment, rent increases for which are controlled in this chapter, the landlord shall have the right to fix the rent for such vacated apartment at such amount deemed appropriate by the landlord.
- B. The landlord shall have the right to fix the rent for such vacated unit as set forth above no more than once in every five-year period. The five-year period shall be effective from and after the effective date of the ordinance.
- C. When utilizing the vacancy allowance, the landlord shall provide the Rent Control Officer with a certification that the landlord is in compliance with this chapter's rent registration requirement under § 257-14; that the landlord is in substantial code compliance with applicable law, as defined in this chapter; that the landlord has not harassed or pressured the tenant into vacating the housing unit as set forth under § 257-13; that the vacating of such unit was a voluntary act on the part of the tenant or was by virtue of a court order; and that a vacancy allowance pursuant to this section has not been charged for the unit during the previous five-year period after this chapter was adopted. The certification shall also include: **[Amended 5-23-2024 by Ord. No. O-24-13]**
 - (1) Documentation to show that the vacancy allowance has not been sought during the five-year period since the ordinance was adopted, including a listing of all occupying tenants, their beginning and end lease period, and the rents paid.
- D. The rent established hereunder shall be deemed the new base rental for the unit within 10 days of submission of the documentation conditioned upon a revision to the rental registration statement which shall be required.
- E. Notwithstanding Subsection D, if the Rent Control Officer determines that the certification is materially false, the Rent Control Officer shall notify the landlord that s/he has 20 days to submit further clarifying evidence. If clarifying evidence is timely provided, the Rent Control Officer shall conduct a hearing within 10 days of receipt of the clarifying evidence. If the Rent Control Officer sustains the determination that the certification is materially false, as to a unit that is vacant at the time of the determination, the landlord shall forfeit its right to the vacancy decontrol allowance for the unit for a period of five years from the sustaining determination. If the Rent Control Officer sustains the determination that the certification is materially false as to a unit that is already occupied by a tenant with a vacancy decontrol allowance at the time of the determination, the rent for said tenant shall be rolled back to the rent in effect prior to the vacancy decontrolled rent, any rent overage

shall be refunded or credited to the tenant, and the landlord shall forfeit its right to the vacancy decontrol allowance for the unit for a period of five years from the date of the sustaining determination. If such a determination is made, the landlord will be entitled to the annual increase permitted under this chapter subject to serving notice as required under state law.

- F. If a vacancy allowance is permitted hereunder, the five-year period runs from the effective date of the vacancy allowance.

§ 257-13. Antiharassment provisions.

- A. Harassment; reduction of services prohibited. Any tenants desiring to remain in their units may do so without provocation or retaliation from landlords. For the purposes of this section, harassment of tenants shall mean conduct, whether direct or indirect, committed intentionally or negligently by a landlord, or anyone acting on his/her behalf. These actions include, but are not limited to:
- (1) A reduction in the quality of basic services necessary to the health safety and welfare of the tenants.
 - (2) Heat, hot water.
 - (3) Adequate security.
 - (4) Intermittent failures.
 - (5) Bothersome telephone calls or letters.
 - (6) Frivolous eviction threats or legal proceedings.
 - (7) Actions which would cause a reasonable person of like age and physical condition of a tenant to fear for his/her life, limb, property, or home.
- B. Investigation/prosecution of harassment complaints. The Township shall investigate and, if appropriate, prosecute complaints involving harassment filed by either tenants or landlords.

§ 257-14. Registration requirement.

- A. Registration: filing and fee.
- (1) Within 60 days of final adoption, every landlord of a dwelling unit subject to this chapter shall file an initial registration statement with the Rent Control Officer showing the amount of base rent for each such dwelling unit as of April 1, 2022, except as herein provided by the definition of base rent. The landlord shall refile annual statements thereafter on April 1 of each succeeding year. The filing shall be on the approved form provided by the Rent Control Officer, complete with all information as set forth below, along with a filing fee of \$10 for each dwelling unit. The form may also be available online.
 - (2) In the event a landlord fails to file the initial registration statement for a subject dwelling unit within 60 days of the adoption of the ordinance and/or within 15 days of each subsequent annual April 1 date, the Rent Control Officer shall send notice to the landlord by certified mail, return receipt requested, and by regular mail, notifying the landlord of its failure to so file and further notifying the landlord to file the registration statement along with a late filing fee of \$20 per dwelling unit.
 - (3) In the event the landlord fails to file the completed registration statement within 45 days of the

date of the Rent Control Officer's mailing notice, the landlord shall be prohibited from increasing the rental amount for such dwelling unit until such time as a completed registration statement is filed and all applicable fees are paid.

- (4) In the event the landlord files false information regarding the amount of rental for a dwelling unit, the landlord shall be prohibited from increasing the rental amount for such dwelling unit.
- (5) The registration statement shall be considered a public document which shall be made available for inspection upon reasonable notice and times as set by the Rent Control Officer.
- (6) The registration requirements in this chapter are in addition to any applicable registration requirements under state law, at N.J.S.A. 46:8-27 et seq., and regulations thereunder, if applicable, which state registration statement is filed with the Township Clerk. At the time of filing the state registration statement with the Town Clerk, the landlord shall also provide a copy of same to the Rent Control Officer.

B. Registration statement - contents. A registration statement shall include at least the following:

- (1) The apartment number.
- (2) The number of rooms for each apartment and the number of bedrooms.
- (3) The current rent for each apartment.
- (4) The amount of the last increase for each apartment.
- (5) The date of the last increase for each apartment.
- (6) The date each lease began and the date the lease ended for each apartment unit.
- (7) The services provided:

Gas-heat	Yes	No
Oil-heat	Yes	No
Electricity-heat	Yes	No
Water-bill	Yes	No
Sewerage-bill	Yes	No
Parking-included	Yes (amount)	No
Washer/dryer	Yes	No

- (8) If applicable, the services provided to the building and the telephone number.
- (9) If applicable, the superintendent's name, address, and telephone number.

§ 257-15. Compliance with housing and building codes.

A. Compliance required prior to granting increase.

- (1) Any landlord who seeks a hardship or major capital improvement increase under § 257-9 shall file with an application a certification from the office of the appropriate Township department to the effect that the building and grounds are in substantial compliance with Township building

and housing codes, which certification shall be based on an application made by the landlord to the appropriate Township department not more than one month before the filing of his/her application with the Board. No such increase may be granted until such certification had been filed and, if a tenant contests the accuracy of such certification, until the Board has determined that there is substantial compliance.

(2) The Board shall deny the application until there has been such compliance.

§ 257-16. Statement of rights.

A. At the inception of tenancy between a landlord and a tenant, the landlord shall provide the tenant with a STATEMENT OF RIGHTS, in bold type, and attached separately to the lease. Such STATEMENT OF RIGHTS shall be separately attached to every notice of rent increase.

B. The STATEMENT OF RIGHTS shall read: **[Amended 5-23-2024 by Ord. No. O-24-13]**

- The Township of Montclair has enacted a Rent Control Ordinance.
- The Ordinance does not cover the rental of single-family homes or single condominium or cooperative units but covers the rental of units in buildings containing 2 or 3 units in which the owner does not reside and all units in buildings containing 4 units or more.
- The Ordinance permits rent increases on covered units once every 12 months in an amount not to exceed 4% or 2.5% for senior 65+ provided the unit is in substantial compliance with the applicable building laws and is properly registered with the Office of Rent Control.
- The Ordinance permits a landlord to fix the initial rents in any amount on a vacant unit, with subsequent increases at 4% or 2.5% ONLY once every five years.
- The Ordinance permits tenants to challenge rents and to challenge annual rent increases within 90 days of receipt of the notice of rent increase that are in violation with the Ordinance.
- The Ordinance includes many other provisions that may impact tenants and landlords. Tenants and landlords are encouraged to review the Rent Control Ordinance.
- The Rent Control Ordinance is available for inspection and is enforced by the Rent Control Officer and/or its designees and the Rent Control Board. The Office of Rent Control is located in the Township Municipal Building at 205 Claremont Avenue, Montclair, NJ.

§ 257-17. Fees. **[Amended 5-23-2024 by Ord. No. O-24-13]**

There is hereby established a schedule of fees for applications to the Rent Control Board.

Fee Type	Amount
Annual registration statement filing	\$10 per dwelling unit
Late filing fee	\$20 per dwelling unit
Legal rent determination	\$25 per dwelling unit
Appeal of Rent Control Officer decision	\$100 per appeal
Capital improvement or service increase application	\$250 per dwelling unit
Hardship application	\$300 per dwelling unit
Vacancy allowance application	\$250 per dwelling unit

§ 257-18. Alternate service of notice.

Personal service or service by certified mail that is either refused or uncalled for may be remailed by ordinary mail and shall be effective as though personal service or notice by certified mail had been accepted.

§ 257-19. Violations and penalties.

Any person found guilty of violating any provision of this chapter or of willfully filing a material misstatement of fact with the Rent Control Officer or Board shall be punishable by a fine not exceeding \$2,000 or by imprisonment not exceeding 90 days or both, as determined by the Township Municipal Court. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold. This section shall be in addition to any remedies for noncompliance or violation of this chapter set forth elsewhere herein.

§ 257-20. Construal.

This chapter being necessary for the Township of Montclair and its tenants subject thereto shall be liberally construed to effectuate those purposes.

§ 257-21. Severability.

If any provision of this chapter is declared invalid, such invalidity shall not affect any other provisions of this chapter which can be given effect, and to this end, any provisions deemed invalid shall be severable and the remaining provisions shall be given the full force of law.

Chapter 260**ROLL-OFF CONTAINERS AND DUMPSTERS**

[HISTORY: Adopted by the Council of the Township of Montclair 10-18-1988 by Ord. No. 88-62. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 218.

IV.

Permits for street or sidewalk encumbrances — See Ch. 297, Art. Solid waste — See Ch. 292.

§ 260-1. Definitions.

For the purpose of this chapter, certain words are defined as follows:

CHIEF OF POLICE — The Chief of Police of the Township of Montclair or his or her designee.

OWNER — The person having ownership of the roll-off container and either using the roll-off container for his or her own purposes or for leasing of the same.

PERSON — Any individual, association, company, firm, corporation, partnership, society or any other entity.

ROLL-OFF CONTAINER — The type of container or dumpster usually associated with a vehicle containing hydraulic or mechanical capabilities to lift a prefabricated container from the ground onto the truck for transport purposes or to lift and dump the material contained therein into the body of said truck, the contents of which container is solid waste consisting of refuse, rubbish and other debris.

STREET — A public thoroughfare within the Township.

USER/PERMIT HOLDER — The person using the roll-off container either as an owner or lessee thereof.

§ 260-2. Permit required.

No person shall place or permit a roll-off container/dumpster to be placed upon any street or municipally owned parking lot within the Township without first obtaining a permit therefor in accordance with the requirements of this chapter.

§ 260-3. Application for permit; fee; refusal of permit.

A. The Chief of Police shall issue a permit for the use of a roll-off container/dumpster as a temporary street obstruction prior to the placement thereof, upon satisfactory written application by either the owner or the user/permit holder, as follows:

- (1) Each application shall be accompanied by a certificate of insurance, either from the owner or the user/permit holder, evidencing public liability coverage insuring the Township in an amount not less than \$500,000 for injuries, including accidental death for any one person, and subject to the same limit for each person in an amount not less than \$1,000,000 on account of each occurrence; and a certificate of insurance either from the owner or the user/permit holder evidencing property damage coverage insuring the Township in an amount not less than

\$100,000 on account of any occurrence and in an amount not less than \$100,000 on account of all occurrences. All policies shall be so written that the Township shall be notified of cancellation or restrictive amendment at least 15 days prior to the effective date of such cancellation or amendment.

- (2) Prior to the issuance of such a permit, the Chief of Police shall consult with the Traffic Bureau to determine that the proposed use of the roll-off container/dumpster shall not constitute a traffic and/or safety hazard.
 - (3) The street upon which the roll-off container/dumpster shall rest shall be at least 30 feet wide from curb to curb.
 - (4) The roll-off container/dumpster can be effectively placed parallel to the curb with the street side of the container not more than eight feet six inches from the adjacent curb.
 - (5) The roll-off container/dumpster shall be equipped with and display markers consisting of all-yellow, reflective, diamond-shaped panels having a minimum size of 18 inches by 18 inches. These panels shall be mounted at the edge of the dumpster or container at both ends nearest the path of passing vehicles and facing the direction of oncoming traffic. These markers shall have a minimum mounting height of three feet from the bottom of the panels to the surface of the roadway.
 - (6) The roll-off container/dumpster shall not obstruct any part of the sidewalk or the sidewalk areas adjacent to the street.
 - (7) Each application for a permit hereunder shall be accompanied by a nonrefundable filing fee of \$25 or such other fee as may be fixed from time to time by resolution of the Council of the Township of Montclair.
- B. The Chief of Police may refuse the issuance of a permit hereunder if the placement of a roll-off container/dumpster at any street location shall constitute a public nuisance or hazard because of contour, narrow width, traffic or other conditions peculiar to the street at or near the proposed location.

§ 260-4. Duration and posting of permit.

- A. Each permit shall be of 30 days' duration and shall require a written application to extend the duration of the permit for an additional 30 days.
- B. The permit shall be conspicuously posted on the job site.

§ 260-5. Miscellaneous provisions.

- A. During all times when the roll-off container/dumpster is in use, a tarpaulin or other suitable tight cover shall be placed over the roll-off container/dumpster in order to protect the contents from being displaced and/or causing litter on public or private property or creating dust, offensive odors or health hazards.
- B. The contents of the roll-off container/dumpster shall be emptied and disposed of upon reaching the waterline of the roll-off container/dumpster.
- C. The user/permit holder shall be responsible for the repair of any street, sidewalk and curb damage caused by the placement, movement or removal of the roll-off container/dumpster.

- D. The insurance required in § 260-3 hereof shall continue in full force and effect during the term of the license.

§ 260-6. 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.¹⁴¹

141. Editor's Note: The save-harmless agreement and the application for placement of dumpster which immediately followed this section are on file in the office of the Municipal Clerk.

SALES, SPECIAL

Chapter 264

SALES, SPECIAL

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Auctioneers — See Ch. 86.

Handbills and posters — See Ch. 178.

Disorderly conduct — See Ch. 127.

ARTICLE I

Closeout Sales

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. III of Ch. 88 of the 1979 Code]

§ 264-1. Definitions.

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

CLOSEOUT SALE — The sale of goods, wares and merchandise held out or represented to the public, by any means, directly or by implication, as forced sales at reduced prices or as insurance, bankruptcy, mortgage foreclosure, insolvency, removal, loss or expiration of lease or closing-out sales, or as assignees', receivers' or trustees' sales or as sales of goods distrained or as sales of goods damaged by fire, smoke or water.

§ 264-2. License required.

It shall be unlawful for any person to publish, announce or conduct any closeout sale, as herein in this article defined, without first making application and obtaining a license therefor in compliance with the provisions of this article.

§ 264-3. Filing of application; approval by Chief of Police. [Amended 5-23-2000 by Ord. No. 00-19]

Applications for licenses under this article, with the appropriate license fee specified in this article, shall be filed with the Municipal Clerk not less than 10 days prior to the date on which the proposed closeout sale is scheduled to be announced or to commence, who shall submit the application to the Chief of Police for his or her approval. No such license shall be issued by the Municipal Clerk without the approval of the Chief of Police.

§ 264-4. Contents of application.

Applications for licenses pursuant to this article shall set forth and contain the following information:

- A. The true names and addresses of the owners of the goods to be the object of the sale.
- B. A description of the place where such sale is to be held, together with the nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy.
- C. The proposed commencement date of the closeout sale and the period of time during which such sale is to be conducted.
- D. A full and complete statement of the facts in regard to the reasons for the proposed closeout sale and in regard to the manner in which the sale will be conducted.
- E. The means to be employed in advertising said sale, together with the proposed content of advertisements thereof, including without limitation advertisements in publishing media, by radio or television or by posting or display upon the premises where the proposed closeout sale is to be held, together with the proposed date of the announcement of the sale.
- F. A complete inventory of the goods to be sold at said sale. Said inventory shall be attached to and become part of the application.

§ 264-5. Duration of license.

Licenses issued under this article shall be issued for periods of 30, 60 or 90 days, at the option of the applicant.

§ 264-6. Limited number of licenses.

Only one license shall be issued to any one person within a twelve-month period.

§ 264-7. License fees. [Amended 3-31-1987 by Ord. No. 87-12]

The fees for licenses issued under this article shall be:

- A. For a period of 30 days: \$50.
- B. For a period of 60 days: \$75.
- C. For a period of 90 days: \$100.

§ 264-8. Investigations; record-keeping requirements.

The Chief of Police may, in his or her discretion, investigate and verify the information and details contained in the application and inventory furnished by the licensee, and the items of goods, wares or merchandise sold pursuant to any closeout sale licensed under this article. No licensee shall fail, refuse or neglect to keep accurate records of all items, goods, wares or merchandise sold pursuant to such licensed closeout sale. Such records shall be kept in such form as to enable the Chief of Police to ascertain the kind, quantity, number, cost and sale prices of items sold. No licensee shall fail or refuse, on the request of the Chief of Police, to give to the Chief of Police or his or her designated representative during the continuance of any licensed closeout sale all facts relating to stock on hand, full and accurate information as to items offered or sold or any other information which the Chief of Police may require in order to make a thorough investigation of all matters relating to any licensed closeout sale or the disposition of goods, wares or merchandise pursuant thereto.

§ 264-9. Goods excluded from sales.

It shall be unlawful to sell, offer or expose for sale at any closeout sale licensed under this article any goods, wares or merchandise other than the goods, wares and merchandise set forth in the inventory attached to the application for a license under this article, or to make any replenishment of or additions to the stock of goods, wares or merchandise included in such closeout sale, but nothing herein contained shall be deemed to prevent replenishments of or additions to stocks of goods, wares and merchandise not subject to such closeout sale, provided that in the event that a licensed closeout sale does not include the entire stock of goods, wares and merchandise of the store or other place of business of the licensee, goods, wares and merchandise offered for sale pursuant to the licensed closeout sale shall be clearly identified.

§ 264-10. Exempt sales.

This article shall not apply to sales by trustees in bankruptcy, executors, administrators, receivers or public officers acting under judicial process.

§ 264-11. 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 article 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.

ARTICLE II

Garage Sales

[Adopted by the Council of the Township of Montclair 7-25-1995 by Ord. No. 95-30]

§ 264-12. Definitions.

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

GARAGE SALE — All general sales open to the public in zones designated "residential," conducted for the purpose of disposing, by sale, barter or otherwise, of personal property, including but not limited to all sales entitled "garage," "lawn," "house," "estate," "auction," "yard," "attic," "porch," "room," "backyard," "patio," "flea market" or "rummage" sales. **[Amended 11-10-1998 by Ord. No. 98-46]**

PERSON — Includes individuals, natural persons, corporations, partnerships, voluntary associations, homeowner associations, unincorporated associations and family groups.

PERSONAL PROPERTY — Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living or in maintaining a residence.

§ 264-13. Permit required; fee; restrictions. [Amended 11-10-1998 by Ord. No. 98-46; 7-7-2009 by Ord. No. O-032-09]

It shall be unlawful for any person to conduct a garage sale within the Township of Montclair without first obtaining a permit from the Municipal Clerk. The fee for such permit shall be \$10 per garage sale, which fee shall be nonrefundable. No garage sale shall be permitted for more than two days, which days shall be consecutive. No person shall conduct more than two garage sales in any one calendar year. No premises shall be the subject of more than two garage sales in any one calendar year. All sales regulated hereunder shall be limited to personal property as same is defined by this article.

§ 264-14. Application for permit.

For the purpose of this article, any person desiring to secure a permit to conduct a garage sale shall, at least one week prior to the date and time set for such sale, complete and submit to the Municipal Clerk an application for the issuance of a permit and shall pay the required fee. Said application shall be in such form as the Township may establish and contain the following information:

- A. The location of the proposed garage sale.
- B. The dates and times of such proposed sale.
- C. The names of the owners of the premises on which the proposed garage sale is to be conducted.
- D. The name or names of the person or persons other than the owners, if any, who will be conducting said proposed garage sale. Where the nature of such sale is an auction or if an auctioneer is conducting said sale, the provisions of Chapter 86, Auctioneers, must be complied with, including § 88-6 requiring 10 days' notice of such sale to the Township, and the items to be sold must be available for inspection within 24 hours prior to the opening of such sale. **[Amended 11-10-1998 by Ord. No. 98-46]**

§ 264-15. Issuance of permit.

The Municipal Clerk shall receive the application and accept the required filing fee and, if upon review of the application, the same is in compliance with the requirements of this article and any regulations

promulgated hereunder, shall issue the permit, and said Municipal Clerk shall number the applications and permits in chronological order.

§ 264-16. Hours.

All garage sales shall be conducted between the hours of 8:00 a.m. and 5:00 p.m. only.

§ 264-17. Signage.¹⁴²

No signs for advertising or directing customers are to be posted on any place other than the premises where the sale is to be held. The sign shall not exceed six square feet in size and shall not be placed on the premises earlier than one week prior to the sale and must be removed within 24 hours after the sale has terminated.

§ 264-18. Nontransferability of permit.

No permit issued by the Township shall be transferable by the permittee to any other person, nor shall the place of the sale be changed without cancellation of the permit and issuance of a new permit, upon application and payment of the required fee for the new location.

§ 264-19. Enforcement.

- A. This article shall be enforced by the Township Code Enforcement Officer.
- B. The permittee is hereby made responsible for the maintenance of good order and decorum on the premises during the hours of such garage sale.
- C. No permittee shall permit any loud or boisterous conduct on the premises where the sale is being held or permit vehicles to impede passage of the traffic on any roads or streets in the area of the premises where the sale is being conducted.

§ 264-20. Exceptions.

The provisions of this article shall not apply to or affect the following persons or sales:

- A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any bona fide, charitable, eleemosynary, educational, cultural or other organization or association organized not for profit. The production of a certified copy of a certificate of incorporation pursuant to N.J.S.A. 15A:1-1 et seq. shall be presumptive evidence of the right of such organization to this exemption.

§ 264-21. Violations and penalties. [Amended 11-10-1998 by Ord. No. 98-46; 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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

¹⁴².Editor's Note: See Ch. 277, Signs.

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.

SEWERS

Chapter 269

SEWERS

[HISTORY: Adopted by the Township Council of the Township of Montclair 5-24-2011 by Ord. No. O-11-027.¹⁴³ Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 161.

Stormwater control — See Ch. 295.

Hazardous substances — See Ch. 182.

Subdivision of land — See Ch. 301.

Land use procedures — See Ch. 202.

Water — See Ch. 341.

Storm sewers — See Ch. 270

Zoning — See Ch. 347.

Site plan review — See Ch. 281.

143.Editor's Note: This ordinance also amended in its entirety former Ch. 269, Sewers, comprised of the following articles adopted by the Board of Commissioners 4-15-1980 by Ord. No. 80-12: Art. I, Sewer Connections, as amended; Art. II, Storm Sewer Permits, as amended (See now Ch. 270, Storm Sewers); and Art. III, Encroachments and Encumbrances, as amended (See now Ch. 270, Storm Sewers); and the following articles adopted by the Township Council 6-13-2006 by Ord. No. 06-34: Art. IV, Sewer Utility; Operation and Maintenance of Sewer System, as amended; Art. V, Billing; Enforcement, as amended; and Art. VI, Improper Disposal of Waste, adopted 2-28-2006 by Ord. No. 06-05, as amended (See now Ch. 270, Storm Sewers); and Art. VII, Illicit Connections, adopted 2-28-2006 by Ord. No. 06-06, as amended (See now Ch. 270, Storm Sewers).

ARTICLE I

Sewer Utility: Operation and Maintenance of Sanitary Sewer System**§ 269-1. Establishment; legislative purposes.**

Effective as of January 1, 2006, there is hereby established a Sewer Utility of the Township of Montclair. The purposes of the Sewer Utility are to promote the operation and maintenance of the Township public sewer system and to thereby assure proper disposal of sewage and wastewater; to provide an adequate record of sewer connections and appurtenances; to prescribe a method of establishing fees and charges for connection to and use of the municipal sewage system; and to provide an appropriate method of billing for such fees and charges.

§ 269-2. Definitions.

For the purposes of this chapter, unless the context specifically indicates otherwise, the meaning of the following terms shall be as follows:

BIOCHEMICAL OXYGEN DEMAND (BOD) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C expressed in milligrams per liter (mg/l).

BRANCH CONNECTION — "A," "T" or "Y" attached to or built in a public sewer to a building sewer.

BUILDING DRAIN — That part of the lowest horizontal piping of a sewage system which receives the discharge from sanitary waste pipes inside the walls of the building and conveys it to the building sanitary sewer beginning at the outside face of the building wall.

BUILDING SEWER OR BUILDING LATERAL — The extension from the building drain to the branch connection at the public sewer or other place of disposal.

COLLECTOR OF SEWER FEES — The duly appointed Tax Collector of the Township of Montclair, or his or her duly authorized deputy, agent or representative.

COMBINED SEWER — A sewer in which both surface runoff or stormwater and sewage are received.

COMMERCIAL OR INDUSTRIAL USER — Any business, industry, store, restaurant or office, and including any single-family residential dwelling having a business or business office located therein if both the residential use and the business or office use are served by the same water meter.

GARBAGE — Solid wastes from the preparation, cooking and disposing of foods and from the handling, storage and sale of produce.

HEALTH OFFICER — The duly appointed Health Officer of the Township of Montclair.

INDUSTRIAL WASTES — The wastewater from industrial processes, trades and businesses as distinguished from domestic or sanitary wastes.

INSTITUTIONAL USER — Any school, church or hospital, or any building or facility owned or operated by a governmental entity, but not including any building or facility owned or operated by the Township of Montclair.

MULTIFAMILY RESIDENTIAL USER — Any apartment building or multifamily house or building, including buildings under cooperative or condominium form of ownership, in which more than one dwelling unit is served by a single water meter.

PERSON — Any individual, firm, company, association, society, corporation or group.

PH — The logarithm of the reciprocal of hydrogen ions in grams per liter of solution.

PUBLIC SEWER — A sanitary sewer to which all owners of abutting properties have equal rights and which is controlled and maintained by a governmental agency or public authority.

SANITARY SEWER — A sewer which carries sewage and in which storm, surface/waters and groundwaters are not permitted to enter and flow.

SEWAGE — A combination of the water-carried wastes from any building or structure, also referred to as "wastewater."

SEWAGE TREATMENT PLANT — Any arrangement of mechanical, biological or chemical devices or structures used for treating sewage.

SEWER — A pipe or conduit for carrying sewage.

SINGLE-FAMILY RESIDENTIAL USER — Any single-family residence, house, dwelling, condominium unit or townhouse unit which is served by a single separate water meter.

SLUG — Any discharge of water or wastewater which in connection of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour concentration of flows during normal operation and/or adversely affects the collection system and/or performance of the wastewater treatment plant.

SUPERINTENDENT — The Superintendent or Acting Superintendent of the Montclair Sewer Utility.

SUSPENDED SOLIDS — Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

ARTICLE II
Sewer Connections

§ 269-3. Connections required.

Pursuant to the authority of N.J.S.A. 26:3-31d, the owner of any property along the line of which there exists a sanitary sewer shall connect his or her house or other building with such sanitary sewer.

§ 269-4. Failure to connect.

Any person who shall fail to comply with any order issued by the Health Officer of the Township to make the required connections within 30 days after notice by the said officer shall be subject to the penalty prescribed in § 269-5. Such notice may be served upon the owner personally or by leaving it in his or her usual place of abode with a member of his or her family above the age of 18 years.

§ 269-4.1. Permit required.

No person shall install, replace or repair any house sanitary sewer from the front property line to the Township collector or interceptor sewer until application shall have been approved by the Superintendent and a written permit has been issued by him. (A plumbing permit is also required to install, replace or repair any house sanitary sewer from the residence to the front property line from the Uniform Construction Code Enforcement Bureau.)

§ 269-4.2. Permit fees.

The permit fee for the installation, replacement or repair of a sanitary house sewer from the property line to the collector sewer shall be \$40.

§ 269-5. Violations and penalties.

Any person who violates any provision of § 269-4 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.

§ 269-6. through § 269-13. (Reserved)

§ 269-14. Connection required.

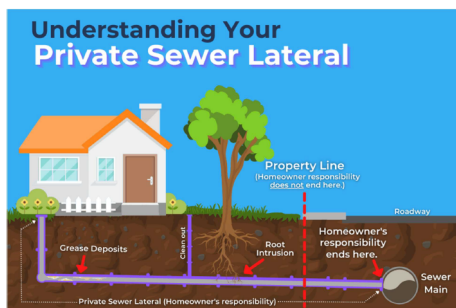
The owners of all houses, buildings, public buildings or properties used for human occupancy, employment or recreation, or other purposes, situated within the Township and abutting on, or having a permanent right of access to any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Township, are hereby required at their expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this article, within 30 days after official notice from the Township of Montclair to do so, provided that said public sewer is within 100 feet of any property line or right of access. The capacity and treatment charges for the use of the sewer system shall begin 30 days after the date of official notice set forth above.

§ 269-15. Permits; rules. [Amended 8-12-2025 by Ord. No. O-25-28]

- A. It shall be unlawful to install any building sewer or to make any connection to the public sewer without first obtaining a building sewer permit, and such installations and connections shall be made under the direction and supervision of the Superintendent of the Montclair Sewer Utility in the manner hereinafter set forth.
- B. Building sewer permits shall be required for residential structures, public buildings and commercial services, the fee for which shall be as set forth in this chapter.
- C. The owner or his agent shall make application on a form furnished by the Township. The permit applications shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent of the Montclair Sewer Utility or required by state law.
- D. Permits will expire four weeks after date of issuance but will be subject to renewal for an additional period of four weeks.
- E. Where the building sewer has been extended by the Township from the main or lateral to the curb or property line, the following shall apply:
 - (1) After securing the building sewer permit, the applicant shall notify the Superintendent of the Montclair Sewer Utility when the excavation is made and the pipe is installed and connected. No backfill is to be placed without the written approval of the Superintendent of the Montclair Sewer Utility.
- F. Where the building sewer has not been extended by the Township from the main or lateral to the curb or property line, the following rules shall apply:
 - (1) The applicant shall secure a building sewer permit and pay the required fee.
 - (2) The applicant shall do all of the excavation required, supply all of the materials and do all of the work.
 - (3) The applicant shall notify the Superintendent of the Montclair Sewer Utility 24 hours before the excavation is ready for the installation of the branch connection.
 - (4) After inspection and approval by the Superintendent of the Montclair Sewer Utility, the work shall be completed by the applicant.
 - (5) The street opening fee, backfilling and repaving shall be as required under Chapter 297, Streets and Sidewalks.
- G. The joint made between the building sewer and the building drain shall be secure and watertight. Standard fittings, approved by the Superintendent of the Montclair Sewer Utility and/or the Plumbing Inspector shall be used for this joint.
- H. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.
- I. It shall be the duty of the Superintendent of the Montclair Sewer Utility, when notified, to inspect the installation of any branch connection or building sewer, to determine whether the same complies with all of the provisions hereof and any other ordinances, the enforcement of which is within the Superintendent's jurisdiction. When the Superintendent is satisfied that the installation complies with

the aforesaid requirements, the Superintendent shall indicate written approval on the permit.

- J. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the Township of Montclair from any loss or damage that may indirectly or directly be occasioned by the installation of the building sewer. In order to guarantee and protect the Township of Montclair for any loss or damage that may indirectly or directly occur by the installation of said building sewer from the main to the curb or property line or the excavation for the installation of any branch connection or any other work, the owner or his agent shall post with the Township of Montclair a performance bond in the amount of \$5,000 to guarantee the payment of any damage which may occur to the property of the Township of Montclair; such performance bond shall be written by a surety company authorized to do business in the State of New Jersey and approved by the Township Attorney and shall be posted with the Township prior to the issuance of the building sewer permit.
- K. A separate and independent building sewer shall be provided for every building except where:
- (1) One building stands at the rear of another on an interior lot and the rear building is an accessory use as established under the Montclair Zoning Ordinance¹⁴⁴; and
 - (2) Both buildings remain under the same ownership.
- L. Old building sewers may be used in connection with new buildings only when they are found, upon inspection by the Superintendent of the Montclair Sewer Utility and/or Plumbing Inspector, to meet all the requirements of this article. Pressure testing and/or video inspection of an existing building lateral may be required in the discretion of the Superintendent or the Township Engineer, and the expense for any such testing or inspection shall be borne by the property owner.
- M. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drain shall be lifted by a sewage ejector.
- N. When abandoning an out-of-service building lateral, the entire pipeline must be removed and the stub must be capped at the sewer main. All such work must be done under the supervision of the Superintendent of the Montclair Sewer Utility.
- O. The property owner shall be responsible for repair and maintenance of building lateral up to and including the connection to the public sewer (see photo for reference).



144.Editor's Note: See Ch. 347, Zoning.

§ 269-16. Meters and measuring devices.

All meters or other measuring devices installed or required to be used under the provisions of this article shall be under the control of the Township and shall be of a type specified by the Township and shall be installed by the owner at the owner's expense. The owner of the property upon which any such measuring device is installed shall be responsible for its maintenance and safekeeping, and all repairs thereto shall be made at the owner's cost, whether such repairs are made necessary by ordinary wear and tear or other causes. Costs for such repairs, if made by the Township, shall be due and payable at the same time, collected in the same manner and be subject to the same penalties as are the charges for sewer use.

§ 269-17. Tampering with system equipment.

No person shall break, damage, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the Township of Montclair sewage disposal system.

§ 269-18. Use restrictions.

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, swimming pool or pond water or cooling water to any sanitary sewer.
- B. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
 - (1) Explosive wastes: wastes which create fire or explosive hazard to the PVSC treatment plant, collection systems or the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naptha, benzene, toluene, xylene and ethers. Materials that flash below 90° using the Pensky- Martens closed tester (ASTM-D93-80) are prohibited.
 - (2) Corrosive wastes: wastes which will cause corrosion or deterioration of the PVSC treatment plant or collection system. All wastes shall have a pH not less than 5.5 or greater than 9.5.
 - (3) Solids and viscous wastes: solids or viscous wastes in amounts which would cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the PVSC treatment plant. Prohibited materials include, but are not limited to, uncomminted garbage, bones, hides or fleshings, cinders, sand, glass, ashes, mud, straw, shavings, metal, rags, feather, offal, plastics, wood, paunch manure, hair, entrails, lime residues, beer or distillery slops, chemical slops, chemical residues, paint or ink residues, cannery waste bulk solids, antibiotic wastes, free mineral acid, concentrated pickling wastes or plating solutions or any other solid or viscous substance capable of causing obstruction to the flow or other interference with the proper operation of the PVSC sewerage treatment plant ("treatment plant") system.
 - (4) Garbage or refuse: any discharge from garbage grinders or from dishwashers with garbage grinders as an accessory, but excluding residential garbage disposals.
 - (5) Noxious materials: noxious or malodorous compounds which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or are or may be sufficient to prevent entry into a sewer for its maintenance or repair.
 - (6) Radioactive wastes: radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will, or may, cause damage or hazards to the treatment plant or personnel operating the system.

- (7) Interference: any waste, including oxygen-demanding wastes, released at a flow rate or concentration which will cause interference with the PVSC treatment plant or with disposal of the sludge resulting from the treatment process.
- (8) Excessive discharge rate: industrial wastes discharged in a slug of adequate volume or strength to cause a treatment process upset or loss of treatment plant efficiency.
- (9) Heat: any discharge which contains heat in amounts which could inhibit biological activity in the treatment process or cause loss of treatment efficiency or cause the temperature of the influent to the treatment plant to exceed 104° C.
- (10) Unpolluted wastes: any unpolluted water, including, but not limited to, cooling water or uncontaminated stormwater, which will increase the hydraulic load on the treatment plant.
- (11) Dilution water: any water added for the purpose of diluting wastes which would otherwise exceed applicable maximum concentration limits.
- (12) Violations: wastes which cause the PVSC treatment plant to violate its New Jersey Pollutant Discharge Eliminator System permit, applicable receiving water standards, permit regulating sludge disposal or any other permit issued to the sewerage treatment plant.
- (13) Extremely hazardous wastes: those wastes designated by the United States Environmental Protection Agency as sufficiently toxic that they shall not be discharged to a sanitary sewer in any concentration.
- (14) Septic tank or cesspool wastes.
- (15) Slug: any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds, for any period or duration longer than 15 minutes, more than five times the average twenty-four-hour concentration of flow during normal operation and/or may adversely affect the collection system and/or performance of the wastewater treatment works.
- (16) Any wastewater which contains total dissolved sulfides in excess of:
 - (a) Two-tenths milligrams per liter where the discharge's point of connection to the system is a gravity sewer line; or
 - (b) Four-tenths milligrams per liter where the discharge's point of connection to the system is a pressure of force main.
- (17) Any water or wastes containing toxic or poisonous substance in such concentration, either singly or by interaction with other wastes, as to constitute a hazard to humans or animals or to interfere with any sewage treatment process or to create any hazard in the receiving waters of the sewage treatment plant.
- (18) Any high-strength waste or special waste.
- (19) Any water or wastes which may contain soluble oil or grease or any water containing floatable fats, oils, greases or other substances in sufficient concentrations that might solidify and/or cause to solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65° C.).
- (20) Any concentrated dye wastes, spent tanning solutions or other wastes which are highly colored or wastes which are of usual volume, concentration of solids or composition that may create

obstruction to the flow in sewers or other interference with the proper operation of the system or the quality of the effluent from the system.

(21) Concentration and characteristics:

- (a) Any waters containing suspended solids of such character and quantity that unusual provision, attention or expense is required to handle such materials at the PVSC sewage treatment plant.

Characteristics	Item	Limitation
Temperature	Maximum	110°
PH	Allowable range	5.5 to 9.0
Biochemical oxygen demand (BOD)	5 day maximum	220 mg/l
Suspend solids	Maximum	220 mg/l
Color	Maximum	220 Co. Pt. Units
Nitrogen	Maximum	40 ppm
Phosphorus	Maximum	15 ppm

- (b) The above-listed concentrations and characteristics may be altered by the PVSC sewage treatment plant as required by regulatory agencies, treatment or reuse requirements or in the event of cumulative overload of the system.
- (c) Maximum allowable concentrations. Users not subject to categorical standards shall not exceed the following limits:

Item	MG/1
Acetylene generation sludge	None
Arsenic	1.0
Barium	4.2
Cadmium	0.1
Chromium (total)	8.0
Copper	8.0
Cyanide	0.1
Iron (total)	5.0
Lead	0.5
Mercury	0.1
Mineral acid (free)	None
Nickel	1.0
Nitrous oxide	10.0
Oils, minerals	15.0

Item	MG/1
Selenium	0.05
Silver	0.03
Sulphur dioxide	0.4
Zinc	8.0

C. Grease, oil and sand interceptors.

- (1) Grease, oil and sand interceptors shall be provided when necessary, in the opinion of the Superintendent of the Montclair Sewer Utility, for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
- (2) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

§ 269-19. Sewer extensions.

- A. Extensions of the public sewer lines shall be by and at the expense of the person making the extension. Said person shall submit to the Superintendent of the Montclair Sewer Utility complete plans and specifications of the extension that is contemplated, prepared by a licensed professional engineer, along with an application for a sewer extension permit, the fee for which shall be \$100, to be paid to the Township of Montclair when the application is made.
- B. The applicant shall proceed with the construction of the sewer extension as shown on the approved plans, and all work shall be subject to the inspection and approval of the Superintendent of the Montclair Sewer Utility. No work shall be covered or backfilled without the approval of the Superintendent of the Montclair Sewer Utility.
- C. In addition to the sewer extension permit fee provided for in this section, the applicant or the user of the sewer shall secure a building sewer permit for each connection to the extension and shall pay the fee provided for under Chapter 269.
- D. Any permit for sewer extension shall expire at the end of six months from the date of issuance. Such permit may be extended by the Superintendent of the Montclair Sewer Utility for an additional six months if such an extension is in the best interests of the Township.

§ 269-20. Power and authority of inspectors.

The Superintendent of the Montclair Sewer Utility and other duly authorized employees of the Township bearing proper credentials and identification shall be permitted to enter in and upon all buildings, structures and properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article.

§ 269-21. Sewer connection fees.

- A. Fee established. A connection fee shall be payable to the Township of Montclair for all buildings,

structures or premises which are hereafter connected to the Township sanitary sewer system. The purpose of the connection fee is to pay the cost of the physical connection and a fair payment toward the capital cost of the Township's sewer system pursuant to N.J.S.A. 40A:26A-11.

B. Connection fee schedule.

- (1) The amount of the connection fee for any building, structure or premises shall be determined in accordance with the following schedule:

Classification	Connection Fee
Existing single-family dwellings served by an individual private well or by an individual septic system	\$1,650
New single-family dwellings	\$1,900
New single-family dwellings, developer-installed connections	\$1,600
Multifamily dwellings, including apartments, townhouses, condominiums, cluster homes and duplexes	\$1,450 (per dwelling unit)
Low-income dwelling units and facilities providing permanent housing for elderly or handicapped persons and operated by charitable, nonprofit organizations which are tax exempt under § 501(c)(3) of the Internal Revenue Code	\$633 (per dwelling unit)
Nursing homes and dormitories	\$1,300 (per bed)
Hospitals	\$3,450 (per bed)
Motels and hotels	\$1,300 (per room)

- (2) Connection fees for all other business, industrial and public buildings are based on meter size as follows:

Meter Size (inches)	Connection Fee
5/8	\$3,465
1	\$13,515
1 1/2	\$27,050
2	\$53,650
3	\$107,735
4	\$187,980
6	\$401,905
8	\$1,004,380
10	\$1,612,305

**Meter Size
(inches)**

Special events

Connection Fee

The connection fee for a permanent connection to be used at special events for no more than 12 days per calendar year shall be 10% of the connection fee listed in this schedule.

- C. Payment. All connection fees shall be due and payable to the Township at such times as a permit is issued for connection to the sanitary sewer system, except that any premises or building for which a building sewer permit has been issued prior to the effective date of this chapter shall be exempt from payment of the connection fees set forth in this section.

§ 269-22. Establishment of rates and charges. [Amended 11-29-2016 by Ord. No. O-16-048]

The below rates and charges shall be in effect commencing on the date shown. The Township Council shall review said rates and charges annually to preserve the self-liquidating status of the utility. Each user shall pay an annual rental charge for use of the sewer system and an annual usage fee for treatment of discharges to the system. The rental charge, also known as the "capacity charge," shall be based on the size of the user's water meter. The treatment charge shall be based on actual treatment costs incurred by the utility, to be billed to all users according to a formula as set forth below. These annual charges shall be payable each year in two equal installments on June 30 and December 1, except that annual charges for "large institutional users" (to be defined in accordance with written guidelines prepared by the Superintendent and approved by the Township Manager) shall be paid in one annual payment due on June 30 of each year.

- A. Capacity charges.

Effective January 1, 2017

Meter Size (inches)	Annual Charge	Due June 30	Due December 1
5/8 x 3/4	\$136.74	\$68.37	\$68.37
3/4	\$205.09	\$102.55	\$102.54
1	\$342.08	\$171.04	\$171.04
1.5	\$682.58	\$341.29	\$341.29
2	\$1,092.45	\$546.23	\$546.22
2 compound	\$1,366.74	\$683.37	\$683.37
3 compound	\$3,077.13	\$1,528.57	\$1,538.56
4 compound	\$6,836.85	\$3,418.43	\$3,418.32
6 compound	\$13,672.12	\$6,836.06	\$6,836.06

Effective January 1, 2018

Meter Size (inches)	Annual Charge	Due June 30	Due December 1
5/8 x 3/4	\$186.74	\$93.37	\$93.37
3/4	\$280.08	\$140.04	\$140.04
1	\$467.17	\$233.54	\$233.53
1.5	\$932.18	\$466.09	\$466.09
2	\$1,491.92	\$745.96	\$745.96
2 compound	\$1,866.51	\$933.26	\$933.25
3 compound	\$4,202.35	\$2,101.18	\$2,101.17
4 compound	\$9,336.88	\$4,668.44	\$4,668.44
6 compound	\$18,671.60	\$9,335.80	\$9,335.80

Effective January 1, 2019

Meter Size (inches)	Annual Charge	Due June 30	Due December 1
5/8 x 3/4	\$236.73	\$118.37	\$118.37
3/4	\$355.06	\$177.53	\$177.53
1	\$592.23	\$296.12	\$296.11
1.5	\$1,181.73	\$590.87	\$590.86
2	\$1,891.31	\$945.66	\$945.65
2 compound	\$2,366.18	\$1,183.09	\$1,183.09
3 compound	\$5,327.32	\$2,663.66	\$2,663.66
4 compound	\$11,836.36	\$5,918.18	\$5,918.18
6 compound	\$23,669.99	\$11,835.00	\$11,834.99

- B. Treatment charge. The treatment charge shall be calculated by taking the total of all water consumed in the municipality during the billing cycle for the first quarter of the current year and dividing this total into the actual total of all treatment billings incurred by the utility for said year from the regional wastewater treatment authorities serving the municipality, to determine an actual rate of wastewater treatment cost per 100 cubic feet of water consumption. Each user shall then be billed an annual charge for treatment that is equal to the aforesaid rate per 100 cubic feet times the user's actual total cubic feet of water consumption during the billing cycle for the first quarter of the current year. Said annual charge shall be payable in two equal installments on June 1 and December 1 of each year, except that annual treatment charge for "large institutional users" (to be defined in accordance with written guidelines prepared by the Superintendent and approved by the Township Manager) shall be paid in one annual payment due on August 1 of each year. The treatment charge for any user who connects to the sewer system after January 1 of any year shall be prorated for the year in question and shall be calculated on the basis of the average water consumption for that user's meter class. The Township Council may, by resolution, extend the due date for payment of capacity and/or treatment charges due under this article.

- C. If legal title to any property has been transferred to a bona fide purchaser in an arm's length transaction between January 1, 2006, and August 1, 2006, as confirmed by the lawful recording of a deed in the Essex County Register's Office, upon request of the property owner and receipt of appropriation documentation, the capacity and treatment charge for the year 2006 shall be prorated so that the party who acquired title after August 1, 2006, shall be responsible only for payment of a proportionate share of the 2006 charges applicable to the period of said person's ownership.

§ 269-23. Water meter installation.

- A. For all property owners subject to the requirements of this article who, as of the effective date of this chapter, obtain water, either in whole or in part, from sources other than the Township of Montclair, the Township shall provide and install, at its expense, water meters to register water consumption for the subject property. All such meter installations shall be maintained by the property owner in a continuous state of accurate operation.
- B. Any property owner subject to the requirements of this article who, after the effective date of this chapter, arranges to and obtains water, either in whole or in part, from sources other than the Township of Montclair, shall provide, install and maintain, at the property owner's expense, water meters approved by the Montclair Water Department which shall register water consumption for the subject property. All such meter installations shall be subject to the approval of the Montclair Water Department and shall be maintained by the property owner in a continuous state of accurate operation.

ARTICLE III
Billing; Enforcement

§ 269-24. Sewer billing.

All bills for sewer user charges shall be payable to the Township within 30 days from the date such bills are mailed by the Township.

§ 269-25. Fees and charges to be a lien.

All charges payable to the Township for connection to or use of the Township sewage system and all charges for connection with and use of the Township sewers and drains shall accrue interest from the time they become due at the same rate as taxes upon real estate in the Township and shall be a lien upon the premises connected until paid, and the Township shall have the same remedies for collection thereof, with interest, costs and penalties, as it has by law for the collection of taxes upon real estate.

§ 269-26. Service shut off for nonpayment.

In the event payment of any bill for sewer user charges or any part thereof is not made when such payment shall become due, the Township shall have the right, upon due notice in accordance with law, to cause the water supply to be shut off from such house, building or other premises so supplied and to not turn on the same again until all arrears, with interest and penalties, shall be fully paid.

§ 269-27. Violations and penalties.

Any person who violates any provision of this article 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.

§ 269-28. Severability.

The invalidity or unconstitutionality of any section, clause, sentence or provision of this article shall not affect or impair the validity of any other part of this article which can be given effect without such invalid part or parts.

§ 269-28.1. Appeals under certain conditions.

- A. Any user who contends that he or she has received an unreasonably high bill for treatment charges due to an abnormally high meter reading resulting from a water leak or defective water meter may file an appeal of said bill with the Superintendent, or his or her designee, in accordance with written procedures promulgated by the Township Manager, which shall include the filing of an affidavit in support of the appeal and payment of a filing fee of \$25. If, upon review by the Superintendent, or his or her designee, said treatment charge is determined to be abnormally high based on an analysis of prior and current account activity, then and in that event the user shall receive a one-time reduction for the billing period in question to be determined in accordance with a schedule of appeal rates adopted by resolution of the Township Council on an annual basis upon its review of the recommendations of the Superintendent and the Township Manager. In the event the Township Council fails to adopt an annual schedule of appeal rates, the most recent schedule of appeal rates

adopted by Council resolution shall remain in effect. The filing fee of \$25 shall be refunded or credited to the user's account in the event the subject appeal results in a reduction of the user's treatment charge.

- B. Any billing adjustments made pursuant to this section must be verified and approved by the Superintendent, or his or her designee, and by the Township Manager. The Township Manager is hereby authorized to issue administrative regulations and guidelines for the processing of any appeals hereunder, and he or she is also authorized to serve as final interpreter and arbiter of any of the provisions of this section.

MONTCLAIR CODE

Chapter 270

SEWERS, STORM

[HISTORY: Adopted by the Township Council of the Township of Montclair 5-24-2011 by Ord. No. O-11-026. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 161.

Hazardous substances — See Ch. 182.

Land use procedures — See Ch. 202.

Sanitary sewers — See Ch. 269.

Site plan review — See Ch. 281.

Stormwater control — See Ch. 295.

Subdivision of land — See Ch. 301.

Water — See Ch. 341.

Zoning — See Ch. 347.

ARTICLE I

Purpose; Definitions**§ 270-1. Scope and purpose.**

It is the purpose of this chapter to protect the health, safety and welfare of people and property within the Township by outlining the proper conveyance of stormwater; to provide an adequate record of connections and appurtenances and to prescribe a method of establishing fees and charges for connection to and use of the municipal separate storm sewer system.

§ 270-2. Definitions; word usage.

- A. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning.
- B. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Township of Montclair or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORM DRAIN INLET or CATCH BASIN — An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

STORM SEWER or STORM DRAIN — A pipe or conduit for conveying water, groundwater, subsurface water or unpolluted water from any source, i.e., a building roof drain; floor drain or sump pump.

SUMP PUMP — A device used to convey stormwater from areas of lower elevation in a building or yard to prevent accumulation of water or flooding.

WATERCOURSE — A natural or artificial channel for the passage of water, either continually or intermittently.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

ARTICLE II
Sewer Connections

§ 270-3. Supervision by Bureau of Engineering.

All private storm sewers, constructed within the Township right-of-way shall be constructed, repaired and inspected under the jurisdiction of the Bureau of Engineering of the Department of Community Services.

§ 270-4. Permit required.

- A. No person shall construct or repair any house private storm sewer within the Township right-of-way or connect any private storm sewer system to the Township-owned storm sewer system until application shall have been approved by the Township Engineer and a written permit issued by him/her.
- B. Storm sewers connecting to the Township-owned storm sewer system shall be subject to the provisions of Chapter 297, Streets and Sidewalks, for street openings, backfilling and pavement restoration.
- C. A plumbing permit shall be required from the Uniform Construction Code Official to install any storm sewer connecting a sump pump from a building or yard to the Township right-of-way.

§ 270-5. Sump pumps.

Sump pumps must be connected into a storm sewer, catch basin or seepage pit on private property. Sump pumps shall not outlet onto the street. Seepage pits shall not be constructed within 10 feet of the adjoining property, whether publicly or privately owned. Site plans for new house construction must be approved by the Engineering Bureau with respect only to drainage.

§ 270-6. Permit fees.

The fees for permits for private storm sewers shall be:

- A. Connect roof leader to gutter: \$20.
- B. Connect storm sewer to catch basin or manhole: \$40.
- C. Connect storm sewer to storm sewer main: \$25.

§ 270-7. Violations and penalties.

Any person who violates any provision of this article 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.

ARTICLE III
Encroachments and Encumbrances

§ 270-8. Enforcement by Township Engineer; authority.

The Township Engineer is designated as the authority empowered to prevent and remove all encroachments, obstructions or encumbrances in or upon all sewers, drains and watercourses in the Township. He or she shall have full power and authority:

- A. To open, clear, clean out, straighten, repair, prevent and remove all such encroachments, obstructions and encumbrances.
- B. For the performance of the aforesaid acts, to go, personally or through his or her duly authorized representatives, upon the land of any person through or along which any sewer, drain or watercourse flows or is located.
- C. To issue notices as provided in § 270-9.

§ 270-9. Removal of encroachments upon notice.

Any person putting, placing or making any encroachment, obstruction or encumbrance in or upon any sewer, drain or watercourse shall remove the same within 24 hours after receiving written notice from the Township Engineer requiring such removal.

§ 270-10. Violations and penalties.

Any person who violates any provision of this article 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.

ARTICLE IV
Improper Disposal of Waste

§ 270-11. Purpose.

This is an article prohibiting the spilling, dumping or disposal of materials other than stormwater into the municipal storm sewer system operated by the Township of Montclair in order to protect public health, safety and welfare and prescribing penalties for the failure to comply.

§ 270-12. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning:

MUNICIPAL STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and storm drains) owned or operated by the Township of Montclair and designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association or political subdivision of the State of New Jersey subject to municipal jurisdiction.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface and is transmitted to the subsurface, captured by separate storm sewers or other sewerage or drainage facilities or conveyed by snow-removal equipment.

§ 270-13. Prohibited conduct.

The spilling, dumping or disposal of materials other than stormwater into the storm sewer system operated by the Township of Montclair is prohibited. The spilling, dumping or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal sewer system is also prohibited.

§ 270-14. Exceptions.

The following activities are excluded from the prohibited conduct set forth in § 270-13 above:

- A. Waterline flushing and discharges from potable water sources.
- B. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains and rising groundwaters).
- C. Air-conditioning condensation (excluding contact and noncontact cooling water).
- D. Irrigation water (including landscape and lawn watering runoff).
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- F. Residential car-washing water and residential swimming pool discharges.
- G. Sidewalk, driveway and street wash water.
- H. Flows from fire-fighting activities.

- I. Flows from rinsing with clean water of equipment used in the application of salt and deicing materials immediately following salt and deicing material application. Prior to rinsing with clean water, all residual salt and deicing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded. Rinsing of equipment, as noted in the above situation, is limited to exterior, undercarriage and exposed parts and does not apply to engines or other enclosed machinery.

§ 270-15. Enforcement.

This article shall be enforced by the Department of Administration, Code Enforcement and Environmental Affairs and/or other municipal officials of the Township of Montclair.

§ 270-16. Violations and penalties.

Any person who violates any provision of this article 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.

ARTICLE V
Illicit Connections

§ 270-17. Purpose.

This is an article prohibiting illicit connections to the municipal storm sewer system operated by the Township of Montclair in order to protect public health, safety and welfare and prescribing penalties for the failure to comply. This article does not apply to any illicit connection which emanates from a location outside the Township of Montclair.

§ 270-18. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning:

DOMESTIC SEWAGE — Waste and wastewater from humans or household operations.

ILLICIT CONNECTION — Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater or other industrial waste (other than stormwater) to the municipal storm sewer system operated by the Township of Montclair, unless the discharge is authorized under a New Jersey Pollutant Discharge Elimination System (NJPDES) permit other than the public complex stormwater general permit. Nonphysical connections may include, but are not limited to, leaks, flows or overflows into the municipal storm sewer system.

INDUSTRIAL WASTE — Nondomestic waste, including, but not limited to, those pollutants regulated under Sections 307 (a), (b) or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b), or (c)].

MUNICIPAL STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and storm drains) owned or operated by the Township of Montclair and designed and used for collecting and conveying stormwater.

NJPDES PERMIT — A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER — Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product.

PERSON — Any individual, corporation, company, partnership, firm, association or political subdivision of the State of New Jersey whose conduct on Township property is subject to regulation by the Township.

PROCESS WASTEWATER — Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface and is transmitted to the subsurface, captured by separate storm sewers or other sewerage or drainage facilities or conveyed by snow-removal equipment.

§ 270-19. Prohibited conduct.

No person shall discharge or cause to be discharged through an illicit connection to the municipal storm sewer system operated by the Township of Montclair any domestic sewage, noncontact cooling water,

process wastewater or other industrial waste (other than stormwater).

§ 270-20. Violations and penalties.

Any person who violates any provision of this article 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.

ARTICLE VI

Private Storm Drain Inlet Retrofitting
[Added 5-24-2011 by Ord. No. O-11-028]**§ 270-21. Purpose.**

The purpose of this article is to require the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Township of Montclair so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 270-22. Definitions; word usage.

- A. For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning.
- B. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Township of Montclair or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORM DRAIN INLET — An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 270-23. Prohibited conduct.

No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), constructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in § 270-24 below prior to the completion of the project.

§ 270-24. Design standard.

Storm drain inlets identified in § 270-23 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this section, "solid and

floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection C below.

A. Grates.

- (1) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (a) The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - (b) A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inches across the smallest dimension.
- (2) Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

C. This standard does not apply:

- (1) Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- (2) Where flows are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - (a) A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
 - (b) A bar screen having a bar spacing of 0.5 inches.
- (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars; or
- (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New-Jersey-Register-listed historic property.

§ 270-25. Enforcement.

This article shall be enforced by the Department of Administration, Code Enforcement and Environmental Affairs and/or other municipal officials of the Township of Montclair.

§ 270-26. Violations and penalties.

Any person who violates any provision of this article 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.

§ 270-27. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

ARTICLE VII
Fertilizer Application
[Added 5-24-2011 by Ord. No. O-11-025]

§ 270-28. Purpose.

The purpose of this article is to regulate the outdoor application of fertilizer so as to reduce the overall amount of excess nutrients entering waterways, thereby helping to protect and improve surface water quality. This article does not apply to fertilizer application on commercial farms.

§ 270-29. Basis and background.

- A. Elevated levels of nutrients, particularly phosphorus, in surface water bodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive plant growth can result in diurnal variations and extremes in dissolved oxygen and pH which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply.
- B. While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-producing rainfall, outside the growing season or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources.
- C. This article does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is needed to address this potential source of excess nutrient load to water bodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

§ 270-30. Definitions; word uage.

- A. For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning.
- B. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BUFFER — The land area 10 feet in width, adjacent to any water body.

COMMERCIAL FARM — A farm management unit producing agricultural or horticultural products worth \$2,500 or more annually.

DROP SPREADER — A machine for dispersing fertilizer or other such material that operates by creating an opening across the entire bottom of the device, causing the contents to drop straight down. Not a broadcast spreader, which drops the contents onto a disc that spins while the spreader is in motion causing the contents to be flung in a circle around the spreader.

FERTILIZER — Means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PHOSPHORUS FERTILIZER — Any fertilizer that contains phosphorus, expressed as P₂O₅, with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.

SOILS TEST — A technical analysis of soil conducted by an accredited soil testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.

WATER BODY or WATER BODIES — A surface water feature or features, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

§ 270-31. Prohibited conduct.

No person may do any of the following:

- A. Apply fertilizer when a runoff-producing rainfall is occurring or predicted within the next 12 hours by the National Weather Service and/or when soils are saturated and a potential for fertilizer movement off site exists.
- B. Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.
- C. Apply fertilizer within the ten-foot buffer of any water body.
- D. Apply fertilizer within 10 to 25 feet of any water body unless application is completed by using a drop spreader only.
- E. Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season for USDA Plant Hardiness Zone 6. USDA Plant Hardiness Zones mapping can be found in The Standards for Soil Erosion and Sediment Control in New Jersey, July 1999. The growing seasons are identified as follows: Zones 5b and 6a (northwestern New Jersey): March 15 to October 31; Zone 6b (northeastern, central and part of southern New Jersey): March 1 to November 15; Zones

7a and 7b (Atlantic Coastal area and southwestern New Jersey): February 1 to November 30. (Refer to USDA Plant Hardiness Zone mapping for more information).

§ 270-32. Phosphorus fertilizer application.

A. No person may do the following:

- (1) Apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.

B. Exceptions.

- (1) Application of phosphorus fertilizer needed for establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules, reestablished or repairing a turf area.
- (2) Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.
- (3) Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

§ 270-33. Enforcement.

This article shall be enforced by the Department of Administration, Code Enforcement and Environmental Affairs and/or other municipal officials of the Township of Montclair.

§ 270-34. Violations and penalties.

Any person who violates any provision of this article 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.

§ 270-35. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

Chapter 273**SHOPPING CARTS**

[HISTORY: Adopted by the Council of the Township of Montclair 11-27-1990 by Ord. No. 90-51. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 218.

§ 273-1. Removal from commercial establishments.

No person shall remove any grocery or shopping cart from the premises of any commercial establishment, including any store, shop, market or supermarket, etc., in the Township of Montclair.

§ 273-2. Notice to be posted.

The owner or person in charge of any such commercial establishment supplying carts for the on-premises convenience of shoppers shall cause to be prominently displayed at all exits therefrom a notice of the provisions of this chapter relating to the prohibition against removal of carts from the premises and penalties for violations thereof.

§ 273-3. Abandonment of carts in public.

It shall be unlawful for any owner or owners to permit any carts to be left unattended or abandoned on any public streets or public place within the Township of Montclair.

§ 273-4. Retrieval of abandoned carts; charge for return.

Shopping carts abandoned upon any sidewalk, street, public or private parking lot or other property, public or private, in the Township of Montclair, other than upon the premises of the commercial establishment which owns such shopping cart, shall constitute a violation of this chapter and shall be so cited and thereafter picked up by the Township of Montclair and returned to the owner thereof. There shall be a charge of \$10 per cart assessed against the owner for the return of these carts, and this charge shall be collected at the time the violation is adjudicated by the appropriate court or municipal officials.

§ 273-5. Violations and penalties.¹⁴⁵

Any person violating the terms of this chapter shall, upon conviction thereof in the Municipal Court of the Township of Montclair or any other court authorized by law to hear and determine the same, be subject to penalty by a fine of not less than \$50 nor more than \$1,000 or imprisonment in the county jail not exceeding 30 days, or both.

§ 273-6. Payment of fines and charges into treasury.

All fines imposed and charges collected under and by virtue of the provisions of this chapter shall be paid

¹⁴⁵Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

into the treasury of the Township of Montclair.

SHUTTLE BUS SERVICE

Chapter 274

SHUTTLE BUS SERVICE

[HISTORY: Adopted by the Township Council of the Township of Montclair 12-10-2002 by Ord. No. 02-55. Amendments noted where applicable.]

§ 274-1. Purpose.

Whereas, the Township of Montclair agreed to a partnership with New Jersey Transit to provide the vehicle for a shuttle bus service to the Bay Street Station, and Whereas, the Township has contracted with First Occupational Center of New Jersey to provide this service for the Township of Montclair, now therefore the purpose of this chapter is to establish the collection of a fee for this service.

§ 274-2. Fees; fare card or permit required for access. [Amended 9-1-2009 by Ord. No. O-042-09]

- A. The Municipal Clerk of the Township of Montclair is hereby authorized to issue fare cards or similar permits for use of the Township shuttle bus service. The fare card or other permit shall reflect a fee of \$2 for a one-way trip on the shuffle bus service in the Township of Montclair. The Township Clerk is also authorized to issue monthly permits for use of the shuttle bus service. The cost of a monthly permit shall be \$25 per month.
- B. If any patron does not have a Township-issued fare card or permit, the bus driver shall have the authority to deny access to the bus.¹⁴⁶

146.Editor's Note: Former § 274-3, Validity, which immediately followed this section, was repealed 9-1-2009 by Ord. No. O-042-09.

Chapter 276**SIDEWALK CAFES**

[HISTORY: Adopted by the Council of the Township of Montclair 12-18-2012 by Ord. No. O-12-65.¹⁴⁷ Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 74.

Signs — See Ch. 277.

Consumption of alcohol in public — See Ch. 127.

Streets and sidewalks — See Ch. 297.

Noise — See Ch. 217.

§ 276-1. Purpose.

The Township Council of Montclair has determined that the establishment of sidewalk cafes permitting dining will promote the public interest by creating an attractive pedestrian environment for its businesses during the day and night and will foster a pleasant and distinctive ambience within the Township. The purpose of this chapter is to establish the appropriate regulations to license and regulate this activity in order to ensure that the health, safety and welfare of the Township is protected.

§ 276-2. Definitions.

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

ADJACENT BUILDING — The building whose principal facade fronts on the sidewalk where the sidewalk cafe is or is proposed to be located.

PARTITION — Movable cafe partitions shall be provided which shall separate the sidewalk cafe from the pedestrian passageway. Said partition shall be no less than 30 inches in height and shall not exceed 36 inches in height, and the design of the partition shall clearly delineate the pedestrian passageway. The partition shall be appropriate to the facade of the building. The partition and all tables and chairs shall be removed from the sidewalk at the close of business each day.

PERSON — Any individual, partnership, corporation, association or other entity.

PRINCIPAL FACADE — That portion of the facade of a building which fronts on a street.

PROJECTIONS —

- A. For sidewalks measuring 15 feet or less from the principal facade to the curb: the sidewalk cafe shall be located immediately adjacent to the principal facade. In no case shall the sidewalk cafe extend so far as to leave less than six feet for pedestrian traffic (area which is unobstructed by trees, light poles, trash receptacles, parking meter posts, planters and similar structures).
- B. For sidewalks measuring over 15 feet, the pedestrian passageway shall be located immediately adjacent to the principal facade, and the seating area of the sidewalk cafe shall begin beyond the passageway.

147.Editor's Note: This ordinance superseded former Ch. 276, Sidewalk Cafes, adopted 5-13-1997 by Ord. No. 97-16, as amended.

- C. At least a six-foot unobstructed passageway shall be provided for pedestrian traffic (area which is unobstructed by trees, light poles, trash receptacles, parking meter posts, planters and similar structures) at all times.
- D. Sidewalk cafes shall only be permitted in front of an operating retail food establishment preparing food and beverages on premises. In those situations where an operating retail food establishment is located on a corner, both the front and the side street area of the retail food establishment may be utilized, following the above stipulations for sidewalk width.

REQUIRED PEDESTRIAN PASSAGEWAY — An area of sidewalk, parallel to the principal facade, unobstructed by trees and light poles, trash receptacles, parking meter posts, telephone booths and similar structures. The location of a required pedestrian passageway shall adhere to the definition of "projections" above, dependent upon the width of the sidewalk.

RETAIL FOOD ESTABLISHMENT — The establishment actually located within the adjacent building for which a current retail food establishment inspection certificate has been issued by the Department of Health, and shall include, by way of example, a restaurant, hotel, coffee shop, tearoom, dining room, cafeteria, luncheonette, soda fountain, sandwich shop, delicatessen and the like.

SIDEWALK — The paved surface provided for the exclusive use of pedestrians in the public right-of-way and situated between and extending from any building to the curb of any street (excluding therefrom any unpaved area).

SIDEWALK CAFE or CAFE — The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of a restaurant or retail food establishment preparing food and beverages on premises, which space is unenclosed and does not have walls. It shall consist of tables and chairs set in front of the restaurant or retail establishment.

§ 276-3. License required; fees.

- A. No person shall operate a sidewalk cafe within the Township of Montclair without first obtaining a sidewalk cafe license and satisfying all of the requirements of this chapter. Licenses shall be renewed annually in accordance with § 276-8.
 - (1) The Township of Montclair shall issue such license upon the adherence to all conditions set forth in this chapter and all applicable Township and state laws and regulations.
 - (2) The Township of Montclair reserves the right to revoke the license of any sidewalk cafe licensee who, upon the expiration of 10 days after receipt of notice from the Township of Montclair or its agents of a violation of state law or any of the requirements set forth in this chapter, fails to abate the violation.
 - (3) The Township of Montclair expressly reserves the right to require the removal of all sidewalk cafes or other projections or encumbrances upon any street, sidewalk or public easement which are improperly constructed or maintained.
- B. An application for an initial sidewalk cafe license or a renewal license shall be accompanied by an annual operation fee in the amount of \$150 for sidewalk cafes seating 12 or fewer patrons and an annual operation fee in the amount of \$250 for sidewalk cafes seating over 12 patrons. For sidewalk cafes which extend a distance greater than four feet from the principal facade and have greater than three tables/six seats, an additional sidewalk use fee of \$1.25 per square foot of outdoor dining area will be assessed. For the first year following the passage of this chapter, the sidewalk use fee shall be waived for any applicant who provides proof that he/she has purchased cafe partitions at a reasonable

cost to comply with this chapter. The Township shall issue the sidewalk cafe license upon adherence to all conditions set forth in this chapter and all applicable Township and state laws and regulations. Renewal applications and license fees must be received by the Health Department no later than January 31 of the year preceding the year for which the license is issued. A late fee of \$50 will be assessed for renewal applications received after January 31, and \$100 for those received after February 28.

- C. All changes in ownership shall require a new application and license with payment of the fee provided herein.

§ 276-4. Application.

- A. Each applicant for a sidewalk cafe license shall submit and file an initial application form with the Health Department, together with five copies of a cafe plan (as defined below), and the appropriate fee. The application shall set forth:

- (1) The name and address of the applicant.
- (2) The name and address of the owner of the adjacent building (if other than the applicant).
- (3) The name and address of the person who has prepared the cafe plan.

- B. Cafe plan.

- (1) The term "cafe plan" shall mean a plan setting forth the following information, and such other additional information, if any, as may be deemed necessary and subsequently requested by the Township:
 - (a) Identification of the adjacent building and properties immediately adjacent to such building.
 - (b) A scaled drawing of the proposed design and location of the sidewalk cafe; all temporary structures, equipment and apparatus to be used in connection with its operation, including actual square footage of the dining area, partitions, tables (size included), chairs, planter, lighting and electrical outlets (if any); provisions for the storage of such structures, equipment and apparatus; proposed signage; and the location of any fire hydrant, plug or standpipe, utility pole, parking meter station, telephone booth or other permanent fixture between the adjacent building and the curb, including a clear indication of the presence of the required pedestrian passageway. Accessory items such as signs, hostess desk, service stations and other items associated with the sidewalk cafe shall not be permitted on the sidewalk outside the designated boundary of the cafe. The plan shall be drawn to scale but need not be professionally drawn.
 - (c) A statement of the seating capacity of the proposed sidewalk cafe and of the existing retail food establishment actually operated by the applicant in the adjacent building.
- (2) Cafes with size constraints making it unreasonable to comply with the partition requirements may apply for a waiver of such. Approval of the waiver is at the discretion of the Health Department.
- (3) The Health Department shall refer the cafe plan to the Fire Official, Uniform Construction Code Official, and Housing and Zoning Officer, who shall review such cafe plan, verify whether there are any outstanding code violations for the retail food establishment (i.e., zoning, property

maintenance, building and fire codes) and provide a written recommendation based upon the plan's compliance with §§ 276-3 and 276-8 of this chapter to the Health Department within five business days.

- (4) Applications for renewal of (previously approved) sidewalk cafes which have no changes from the initial application may submit a license renewal form, updated insurance information and annual fee only.
- (5) If no outstanding violations exist, the Health Department shall approve or disapprove the cafe plan no later than 10 business days from the date of submittal of a complete application and plan.

§ 276-5. Insurance required.

No sidewalk cafe license shall be issued unless the licensee shall have first filed adequate proof that the following insurance requirements have been provided:

- A. The following wording must appear on the insurance certificate: "The certificate holder (Township of Montclair) is included as an additional insured as respects losses arising solely from the operation of the sidewalk cafe."
- B. Ten days' written notice of cancellation must be provided to the Township.
- C. Insurance in force must be written by a company licensed to do business in the State of New Jersey and rated A or better by A.M. Best Rating, and the certificate shall so state: "Rated by A.M. Best Rating."
- D. Minimum coverage requirements are:
 - (1) General aggregate: \$1,000,000.
 - (2) Products and completed operation aggregate: \$1,000,000.
 - (3) Personal and advertising injury: \$1,000,000.
 - (4) Each occurrence: \$1,000,000.
 - (5) Fire damage (any one fire): \$50,000.
 - (6) Medical expense (any one person): \$5,000.
 - (7) Workers' compensation: statutory requirements.
 - (8) Liability:
 - (a) Employer's liability: \$100,000 each accident.
 - (b) Disease policy limit: \$100,000.
 - (c) Disease, each employee: \$100,000.

§ 276-6. Indemnification agreement.

No sidewalk cafe license shall be issued unless the licensee shall have first executed and filed with the Health Department an indemnification agreement pursuant to which the licensee, in further consideration

of the issuance of the license, shall agree to forever defend, protect, indemnify and save harmless the Township of Montclair, its officers, agents and employees, from and against any and all claims, causes of action, injuries, losses, damages, expenses, fees and costs, including attorneys' fees, arising out of or which may arise out of the licensee's operation of such sidewalk cafe.

§ 276-7. (Reserved)

§ 276-8. Term of license; renewals; temporary suspension.

- A. All sidewalk cafe licenses shall be issued for a one-year period, beginning March 1 and ending February 28.
- B. Licenses may be renewed annually by the filing of an annual application.
- C. The Township may temporarily suspend a sidewalk cafe license if access to the sidewalk is needed in connection with public work to be performed in the area.

§ 276-9. Rules, regulations and specifications.

A sidewalk cafe authorized and operating pursuant to this chapter shall comply with all of the following rules and regulations and such others as may be adopted from time to time by ordinance of the Township Council:

- A. The cafe shall be operated and maintained in accordance with the cafe plan as finally approved and by the same person who operates and maintains the abutting retail food establishment.
- B. The placement of furniture, apparatus, decoration or appurtenances used in connection with the operation of the sidewalk cafe in relation to any fire hydrant, plug or standpipe permanent fixture shall be approved by specific written authorization of the Fire Official based upon his or her review of the cafe plan.
- C. No furniture, apparatus, decoration or appurtenance used in connection with the operation of the sidewalk cafe shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building or structure.
- D. No furniture, apparatus, decoration or appurtenance used in connection with the operation of the sidewalk cafe shall be located in or project or protrude into the required pedestrian passageway, and such encumbrances shall not pose a safety hazard to the general public.
- E. Any table service provided at the sidewalk cafe shall be provided by persons engaged or employed for that purpose and shall be furnished to seated patrons only. Table service is not required, and retail food establishments that do not provide table service may operate sidewalk cafes in which patrons carry their food from inside the premises to tables located in the sidewalk cafe.
- F. The sidewalk area utilized by the sidewalk cafe shall be kept clean and free of litter and shall be washed as necessary. Covered trash receptacles shall be provided and maintained (emptied) by the retail food establishment operator.
- G. Signage shall conform to Montclair Township ordinances; Chapter 347, Article XVIII, Signs.
- H. Noise shall be kept at such a level as to comply in all respects with the provisions of applicable ordinances. Exterior lighting shall be directed onto the sidewalk cafe and shall not intrude on adjacent residential properties.

- I. Sidewalk cafes shall be permitted to operate only from 7:00 a.m. until 11:00 p.m.
- J. Within 30 minutes after the closing of the restaurant, the licensee shall cause to have removed from the sidewalk all partitions, furniture, trash receptacles, apparatus, decorations and appurtenances, and any other material or items used in connection with the operation of such cafe. All such materials and items shall be stored in a safe and secure location approved by the Fire Chief and shall not be stored in food preparation or food storage areas.
- K. No food may be prepared or stored in the sidewalk cafe or outside the adjacent building.
- L. The license shall comply with all other ordinances of the Township of Montclair.

§ 276-10. Alcoholic beverages.¹⁴⁸

- A. The sidewalk area upon which a cafe has been authorized to operate pursuant to this chapter may constitute premises duly licensed for the sale and consumption of alcoholic beverages; provided, however, that the related restaurant of which the cafe is a part is so licensed; and provided, further, that specific approval has been obtained pursuant to New Jersey alcoholic beverage control regulations for extension of the alcoholic beverage consumption license to the sidewalk area. Such approval shall be separate from, and must be obtained in addition to, the license to operate a sidewalk cafe pursuant to this chapter.
- B. Retail food establishments which do not have a license to sell alcoholic beverages within their premises but are legally permitted to allow patrons to carry onto and consume alcoholic beverages inside the establishment (BYOB) shall also be permitted to allow patrons to carry onto and/or consume alcoholic beverages on any sidewalk area duly licensed as a cafe hereunder.

§ 276-11. Notice of violation; failure to comply.

Upon determination by the Health Department that a licensee has violated one or more of the provisions of this chapter, the Department may give written notice to the licensee to correct such violation within 24 hours of the receipt of such notice by the licensee. In the event that the licensee fails or refuses to correct such violation within such period, the licensee's sidewalk cafe license may thereupon be revoked. Any licensee cited for three or more violations of this chapter, even if corrected, may have his or her license revoked.

§ 276-12. Appeals.

Any person aggrieved by any action of the Health Department, in the denial or revocation of a sidewalk cafe license, shall have the right to appeal to the Township Manager. The appeal shall be taken by filing with the Health Department, within 30 days after the notice of the action complained of has been served personally upon the licensee, or mailed, postage prepaid, to the licensee at the address given by the licensee on the application form, a written statement setting forth fully the grounds for appeal. The Health Department shall set a time and place for the appeal, which, in the case of a license revocation, shall be no later than five business days after the appeal is filed, at which time the Township Manager shall conduct a hearing and affirm, modify or reverse the action appealed from.

§ 276-13. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a

148. Editor's Note: See Ch. 74, Alcoholic Beverages, and Ch. 127, Disorderly Conduct.

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.

Chapter 277**SIGNS**

[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 Art. VI of Ch. 192 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Maintenance of signs — See Ch. 247.

Sidewalk cafe signs — See Ch. 276.

Garage sale signs — See Ch. 264.

Site plan review — See Ch. 281.

Trapdoor and shaftway warning signs — See Ch. 153.

Subdivision of land — See Ch. 301.

Handbills and posters — See Ch. 178.

Use of newsracks for advertising signs — See Ch. 333, Art. II.

Signs in parks — See Ch. 234.

Zoning — See Ch. 347.

§ 277-1. Permitted signs; approval.

No signs shall be constructed within the street lines of any public street within the Township of Montclair, except as follows:

- A. Signs erected by a governmental agency for the convenience or control of pedestrian or vehicular traffic.
- B. Directional signs to direct vehicles carrying persons requiring emergency treatment for mental or physical distress to institutions affording such treatment within Township limits, including Mountainside Hospital. Such signs shall not exceed 20 inches in width and 24 inches in height, and not more than six such signs shall be erected within Township boundaries by any single institution.
- C. Fraternal and civic organizations.
 - (1) Signs carrying emblem and meeting place of a fraternal or civic organization authorized by special resolution of the Township Council. Such signs shall not exceed 18 inches in height and 24 inches in width and shall be attached on one side, facing traffic, as long as space may be available, to a single support to be erected by the Township, the display portion of which shall be approximately 24 inches in width and 90 inches in height. Not more than one such structure shall be erected at the following locations within 750 feet, more or less, of the Township line, and not more than five signs shall be attached to each support:
 - (a) Bloomfield Avenue at the Glen Ridge line.
 - (b) Bloomfield Avenue at the Verona line.
 - (c) Grove Street at the Clifton line.
 - (d) Valley Road at the Clifton line.
 - (e) Orange Road at the southerly line.

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- (2) All existing signs of fraternal and civic organizations other than those authorized by this subsection shall be removed.
- D. By special resolution, in such locations and dimensions as the Township Council may from time to time deem appropriate as being in the public interest and in furtherance of the Township public welfare; provided, however, that any signs so authorized under this subsection shall remain erected only so long as the governing body deems said signs to further the public purpose for which they were originally authorized. **[Added 9-27-1983 by Ord. No. 83-37]**
- E. No sign shall be erected without the prior approval of the Township Engineer as to location, size and manner of construction of said sign.

§ 277-2. Dilapidated or unsafe signs.

Any signs presently or hereafter erected or maintained within the street lines of any public street within the Township of Montclair may be removed by the Township Engineer, without notice, whenever such signs shall become dilapidated or unsafe.

§ 277-3. 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.

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.

Zoning — See Ch. 347.

Subdivision of land — See Ch. 301.

§ 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, excluding one lot with a single one-family or two-family dwelling, for approval of: **[Amended 1-19-2016 by Ord. No. O-15-042]**

- 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, excluding exact replacement of existing walls and fences; and/or
- C. Outdoor installation or relocation of:
 - (1) A refuse or solid waste storage and collection area and its screening; or
 - (2) An emergency power generator or condensing unit; or
 - (3) Freestanding signs; and/or
- D. Redesign of the layout or internal traffic flow of an existing parking area; 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, 1977.¹⁴⁹ 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.

§ 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

149. Editor's Note: See Ch. 202, Land Use Procedures.

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,¹⁵⁰ 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.
- 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

150. Editor's Note: See Ch. 202, Land Use Procedures.

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. O-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.

Chapter 285**SKATEBOARDS**

[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. 188 of the 1979 Code; amended in its entirety 10-14-2003 by Ord. No. 03-67. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Bicycles — See Ch. 93.

Streets and sidewalks — See Ch. 297.

Disorderly conduct — See Ch. 127.

Vehicles and traffic — See Ch. 327.

Parks and playgrounds — See Ch. 234.

§ 285-1. Definitions.

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

SKATEBOARD — A single platform which is mounted on wheels that is propelled by the rider and steered by tilting the board in the desired direction.

§ 285-2. Prohibited places of operation.

- A. No person shall use, operate or ride upon any skateboard on any public sidewalk, parking deck or on any public fixture, such as a bench, wall or railings within the Township of Montclair.
- B. Skateboarding shall not be permitted for the entire length of Bloomfield Avenue and Church Street, but is permissible on any other public street.

§ 285-3. Rights and duties.

Every person operating a skateboard upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by Chapter 4 of Title 39 of the Revised State Statutes with the additional regulations:

- A. Persons operating a skateboard upon a roadway may travel no more than two abreast when the traffic is not impeded, but otherwise shall ride in single file, except on paths or parts of roadways set aside for the exclusive use of skateboards, roller skates or bicycles.
- B. Any person operating a skateboard who is under the age of 14 must wear a helmet that meets state bicycle helmet specifications.

§ 285-4. Skateboard apparatus or equipment.

No person shall place any apparatus or equipment, such as ramps used by skateboarders, on any public street, public sidewalk, public park, public parking lot or other public place within the Township of Montclair. (This regulation can be waived on playgrounds and parks operated by the Board of Education or the Department of Parks and Recreation if either of these bodies approves of such use, on a temporary or permanent basis, in writing.

§ 285-5. Violations and penalties.

Any person who violates any of the provisions of § 285-2 shall, upon conviction thereof, be punished by a fine not exceeding \$100.

SOLID WASTE

Chapter 292

SOLID WASTE

[HISTORY: Adopted by the Board of Commissioners (Arts. I and II), now Township Council (all subsequent articles), as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 100.

Receptacles for combustible materials — See Ch. 153.

Garbage storage receptacles — See Ch. 190, Art. I, § 190-19.

Disposal of trash in parks — See Ch. 234, Art. I, § 234-2.

Garbage receptacles in multiple-unit dwellings — See Ch. 247, § 247-7C.

Waste disposal at dry-cleaning establishments — See Ch. 333, § 333-16.

ARTICLE I

Dumping**[Adopted 4-15-1980 by Ord. No. 80-12 as Art. VII of Ch. 166 of the 1979 Code]****§ 292-1. Purpose.**

The purpose of this article is to eliminate breeding places for flies, mosquitoes and vermin, to minimize fire hazards, to protect public health and to promote public safety.

§ 292-2. Dumping of certain materials prohibited. [Amended 2-19-1991 by Ord. No. 91-7]

It shall be unlawful for any person to deposit upon any property or upon any public street, sidewalk, gutter or waterway any litter, barrels, boxes, cans, bottles, glasses, papers or containers, broken or otherwise, susceptible of holding or containing liquids, or any junk, garbage, rubbish, live or dead vegetation, grass, leaves, trees, branches, stumps, cast-off building materials, soil, offal or any other offensive or unsightly matter.

§ 292-3. Cleanliness of sidewalks in front of business premises.

All owners or occupants of stores or other places of business shall keep the sidewalks and gutters in front of their premises in a clean and orderly condition.¹⁵¹

§ 292-4. 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 article 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.

151.Editor's Note: See Ch. 297, Streets and Sidewalks, Art. III, Snow and Ice Removal.

ARTICLE II

Newspapers, Glass and Other Recyclables

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 153 of the 1979 Code; amended in its entirety 9-29-2015 by Ord. No. O-15-028]

§ 292-5. Establishment of mandatory source separation program.

There is established a program for the mandatory source separation from the municipal solid waste stream by the single-family and multifamily residential, commercial, office park, industrial, institutional and governmental solid waste generators of the Township of Montclair, at the point of generation, of the following items: glass food and beverage containers, aluminum beverage containers, steel/tin food and beverage containers, plastic containers (see note on plastic containers), mixed paper, uncontaminated newspapers, old corrugated containers, leaves, grass, used motor oil, white goods, lead acid batteries (vehicle batteries) and ferrous scrap.

§ 292-5.1. Establishment of collection program.

There is established a mandatory program for the Township of Montclair for the separate collection of glass food and beverage containers, aluminum beverage containers, steel/tin food and beverage containers, plastic containers, mixed paper, uncontaminated newspapers and old corrugated containers from the residences, businesses and institutions of the Township of Montclair for recycling purposes. Such collection shall be made periodically under the supervision of the Director of Community Services.

§ 292-6. Authorization to establish regulations.

The Director of Community Services is hereby authorized and directed to establish and promulgate regulations as to the manner, days and times of such collections and the bundling, handling, location and time of placement of all materials for collection. Unless otherwise specified herein, the location and time of placement of material, as the same are defined herein, shall be as set forth in § 292-23B.

§ 292-7. Separation of recyclables from refuse; used motor oil.

- A. Glass containers, aluminum cans, tin cans, plastic containers (see note in § 292-5) uncontaminated newspapers, mixed paper, corrugated cardboard and used motor oil shall be kept separate from and not mixed with regular refuse which is collected by the Department of Community Services. The glass containers, aluminum cans, tin cans and plastic containers should be rinsed and have caps removed and may be commingled in a rigid plastic or metal receptacle which is not to exceed 35 gallons in capacity. Mixed paper can be put in a similar rigid container as the commingled items or cross-tied with cloth string. Corrugated cardboard shall be flattened and tied with string in bundles in a size up to three feet in length and three feet in width, and each bundle shall not exceed 50 pounds in weight. All nonpaper materials must be removed from the bundles.
- B. Used motor oil shall be disposed of by taking the same to a used oil collection site. However, no person shall dispose of more than five gallons of used oil per day to any used oil collection site (New Jersey Used Oil Recycling Regulations, N.J.A.C. 14A:3-11.4).

§ 292-8. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ALUMINUM CANS — Includes all containers normally used in the consumption of alcoholic and nonalcoholic beverages both in the home and in retail establishments dispensing the same for on- or off-premises consumption, the same being made entirely of aluminum.

BIMETAL CANS — Aluminum and tin or tin-plated steel food and beverage containers, including those for fruits, vegetables, juices and pet food; to be rinsed.

COMMERCIAL SOURCE — Wholesale, retail, service or manufacturing establishments, including but not limited to restaurants, markets, offices, retail and wholesale outlets, industrial establishments and theaters.

CORRUGATED CARDBOARD — All corrugated cardboard of the type commonly used for boxes, shipping containers and packing material having exterior cardboard plies separated by air spaces created by one or more fabricated cardboard plies. For recycling purposes, brown paper (Kraft) is included. Corrugated cardboard shall be considered contaminated if it has a plastic or wax coating or has been exposed to substances or conditions rendering it unusable for recycling.

ELECTRONICS — Televisions, monitors, scanners, printers, portable/laptop computers, keyboards and mice, fax machines, mainframes, e-book readers, cell phones and telephones, telecommunications equipment, modems, servers, VCR/DVD players, stereos and radio equipment, cable attachments, speakers, wire, MP3 players, cameras, copiers and UPS/battery backups.

FERROUS SCRAP — Scrap metal that is magnetic and rust such as structural steel or cast iron components.

GLASS FOOD AND BEVERAGE CONTAINERS — All containers and objects commonly used in residential and nonresidential premises, such as bottles, jars, glasses, jugs and all other vessels made entirely and exclusively of glass. Plate glass mirrors and light bulbs are excluded.

GRASS CLIPPINGS — All grass cuttings which have been collected and removed from turf areas.

HOUSEHOLD HAZARDOUS WASTE — Any waste which poses a present or potential threat to human health, living organisms or the environment. It shall include waste material that is toxic, corrosive, irritating, radioactive, biologically infectious, explosive or flammable. Included are such things as batteries, asbestos, insecticides, paints, paint thinners, acids, cleaning compounds, antifreeze, used motor oil and any other item subject to special consideration in its disposal by federal or state law or regulation.

INSTITUTIONAL SOURCES — Churches, synagogues, colleges, schools, municipal or municipally supported bodies, not-for-profit organizations and the like.

LEAVES — Foliage material naturally formed from trees and bushes that are suitable for composting and mulching.

MAGAZINES — Periodical publications, usually bound, with paper covers.

MIXED PAPER — A combination of paper products defined by the recycling contractor for this category. Typically, it means corrugated containers, newsprint, magazines, catalogs, brochures, advertising flyers and most mail, phone books, paper bags and paperback books, food boxes (cereal, pasta, cookie, etc.), nonmetallic wrapping paper, copy paper, notebook paper (any color), calendars, stationery paper (any color), fax or photocopy paper, computer paper, mimeograph paper and books (with hard covers removed).

MULTIFAMILY SOURCE — Any building or structure, or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see N.J.S.A. 13:1E-99.13a) and shall include hotels, motels, or other guest houses serving transient or seasonal guests, as those terms are defined under Subsection (j) of Section 3 of the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.).

NEWSPAPER — Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matter of public interest.

OFFICE PAPER — White typing, print-shop, copier or computer printout paper and white envelopes without windows.

PHONE BOOKS — Telephone directories with paper covers, a glued binding and newsprint-quality paper.

PLASTIC CONTAINERS — Only those containers, such as beverage containers and laundry product containers, that have the resin identification code 01 (PET) or 02 (HDEP). Excluded are flower pots and Styrofoam.

RECYCLABLE MATERIAL — Any material designated by the Township of Montclair to be a mandatory recyclable.

RECYCLING — A process, by which materials which would otherwise be disposed of as solid waste are separated, collected, processed and converted into economically valuable raw materials or products.

REFUSE — All putrescible and nonputrescible waste, including garbage, rubbish, ashes, street cleanings, dead animals, industrial waste and hazardous refuse.

RESIDENTIAL SOURCE — Homes, condominiums, townhouses, apartments, senior citizen homes, trailer parks and other dwelling units not defined as commercial or institutional sources.

SOLID WASTE — All ashes, garbage, refuse, garden and household refuse, debris and other discarded materials from residential, institutional or commercial sources, including Christmas trees and excluding recyclable material.

SOLID WASTE COLLECTION — The collection and transportation of solid waste from its source or location to a disposal site, a resource recovery facility or a recycling facility.

SUFFICIENT SUITABLE RECEPTACLE — Animal-proof receptacles provided with covers constructed to prevent spillage or leakage of contents in a number sufficient to contain the recyclables accumulated, pending collection, in conformance with the Township of Montclair's or private recycling collection schedules.

SUITABLE RECEPTACLE FOR COMMINGLED RECYCLING COLLECTION — A receptacle made of metal or rigid plastic, with a capacity of no more than 35 gallons, with handles, solidly constructed, so as to prevent spillage or leakage of contents, and weighing not more than 50 pounds when placed for collection. Paper bags, plastic bags and cardboard boxes are not suitable receptacles for commingled recycling. All containers must be tightly covered to prevent spillage or leakage and the intrusion of rainwater.

SUITABLE RECEPTACLE FOR MIXED PAPER RECYCLING COLLECTION — A receptacle made of metal or rigid plastic, with a capacity of no more than 35 gallons, with handles, solidly constructed, so as to prevent spillage or leakage of contents, and weighing not more than 50 pounds when placed for collection. All containers must be tightly covered to prevent spillage or leakage and the intrusion of rainwater. Mixed paper may also be placed at the curb in paper bags. The bags shall be cross-tied with cloth twine.

TIRES — Rubber tires from autos, motorcycles and light-duty trucks, all off rims.

USED MOTOR OIL — Any waste crankcase oil from periodic maintenance of internal combustion engines.

WHITE GOODS or WHITE METALS — Appliances such as refrigerators, air conditioners, stoves,

washers, dryers, steel or cast-iron plumbing fixtures, dishwashers and water heaters.

§ 292-9. Ownership of recyclables by Township; unauthorized collection prohibited.

From the time of placement at the curb, by any resident, of newspapers, mixed paper, cardboard, glass containers, aluminum cans, tin/steel cans and plastic containers for collection by the Township of Montclair pursuant to the program established hereby and the rules and regulations issued hereunder, such materials shall become and be the property of the Township of Montclair, and it shall be a violation of this article for any person other than authorized personnel of the Department of Community Services or the resident to collect or pick up or cause to be collected or picked up such materials. Each such collection in violation hereof from one or more residences during said period shall constitute a separate and distinct offense.

§ 292-10. Additional methods of disposal.

- A. Any resident may donate or sell glass containers, aluminum cans, tin/steel cans, plastic containers, uncontaminated newspapers, mixed paper and/or cardboard to any person, partnership or corporation, whether operating for profit or not for profit. Said person, partnership or corporation may not, however, under any circumstances pick up said glass containers, aluminum cans, tin cans, plastic containers, uncontaminated newspaper, mixed paper and/or cardboard from the curbside in the Township of Montclair.
- B. There will be a dropoff at the Department of Community Services for the following commingled materials: glass containers, aluminum cans, tin/steel cans and plastic containers. Also accepted at the dropoff site will be mixed paper, corrugated cardboard, tires, plate glass, electronics and uncontaminated newspapers, at the hours and times determined by the Director of Public Works.
- C. Pursuant to N.J.A.C. 7:26A-10.3, commercial, institutional and residential sources may have recyclables collected by a private hauler.

§ 292-10.1. Reporting requirements.

Prior to March 1 of each year, occupants of all commercial and institutional establishments, residential source owners or their agents shall report to the Municipal Recycling Coordinator the tonnage of recyclables collected and removed from the municipality during the previous year. The municipality will provide forms when needed.

§ 292-11. Violations and penalties.

- A. Any person who violates any provision of this recycling article 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 this article 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.
- B. In addition to the foregoing penalties, where a container includes designated recycling material mixed with solid waste, the container will not be collected.
- C. Fines levied and collected pursuant to this article shall be immediately deposited into the Municipal Recycling Trust Fund, if created; otherwise such funds shall be deposited as ordinary revenue.

§ 292-11.1. Enforcement.

This recycling article shall be enforced by the Safety and Code Enforcement Office, Environmental Affairs and Essex County Department of Health.

§ 292-12

SOLID WASTE

§ 292-12

ARTICLE III
(Reserved)¹⁵²

§ 292-12. through § 292-18. (Reserved)

152.Editor's Note: Former Art. III, Corrugated Cardboard, adopted 12-16-1986 by Ord. No. 86-55, as amended, was repealed 9-29-2015 by Ord. No. O-15-028. See now Art. II, Newspapers, Glass and Other Recyclables.

ARTICLE IV

Garbage, Rubbish and Refuse

[Adopted by the Council of the Township of Montclair 10-6-1987 by Ord. No. 87-49 (Art. III of Ch. 137 of the 1979 Code)]

§ 292-19. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BULKY WASTE — Large household items, except items excluded under the definition of "solid waste" herein, which because of their size or weight cannot be contained in suitable receptacles.

COMMERCIAL SOURCE — A wholesale, retail or service establishment, including but not limited to restaurants, markets, offices, retail and wholesale outlets, theaters, hotels and warehouses.

CONDOMINIUM — The form of ownership so defined in the State Condominium Act, P.L. 1969, c. 257 (N.J.S.A. 46:8B-1 et seq.).**[Added 2-9-1988 by Ord. No. 88-1]**

DWELLING UNIT — Any room or group of rooms or any part thereof located within a building and forming a single, habitable unit with facilities which are used or designed to be used for living, sleeping, cooking and eating.**[Added 2-8-1988 by Ord. No. 88-1]**

GARBAGE — Putrescible animal and vegetable waste resulting from the preparation, cooking or consumption of food.

HAZARDOUS WASTE — Any material or substance so defined in N.J.S.A. 13:1E-38, and the regulations thereunder, or other federal, state or county statute or regulation which prohibits disposal of said substance or material in the solid waste disposal facility designated for use by the Township.

INSTITUTIONAL SOURCE — Schools, hospitals, churches, research institutions, nursing homes and public buildings.

LITTER — Any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other nature or synthetic material, or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can; any unlighted cigarette, cigar, match or any flaming or glowing material; or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste; newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.**[Added 2-19-1991 by Ord. No. 91-6]**

MULTIFAMILY DWELLING — Any building or structure of one or more stories and any land appurtenant thereto and any portion thereof in which there are three or more units of dwelling space occupied, or intended to be occupied, by three or more persons who live independently of each other. This definition shall not include any dwelling units held under a condominium form of ownership.**[Added 2-9-1988 by Ord. No. 88-1]**

RECYCLABLE MATERIALS — Those materials designated by the Township to have a recycling value. Materials so designated are glass containers, aluminum cans, tin cans, plastic containers (see note on plastic containers), office paper in accordance with § 292-7, mixed paper in accordance with § 292-7, uncontaminated newspapers and used motor oil in accordance with § 292-7. Also designated as having recycling value are tires, household appliances and corrugated cardboard. (NOTE: The type of plastic containers to be collected for recycling will be determined by the Director of Community Services.)**[Amended 10-17-1989 by Ord. No. 89-39; 5-15-1990 by Ord. No. 90-20; 5-23-2000 by Ord. No. 90-20]**

No. 00-19; 6-15-2004 by Ord. No. 04-34]

REFUSE — Dry, nonputrescible waste, except any materials excluded under the definition of "solid waste."

RESIDENTIAL SOURCE — A household or other dwelling unit. For the purposes of this article, each condominium unit owner in possession of a unit deed shall constitute a separate residential source.[**Amended 2-9-1988 by Ord. No. 88-1]**

SOLID WASTE — Garbage, refuse and bulky and vegetative wastes originating from residential or institutional sources within the Township of Montclair. Items specifically excluded are:[**Amended 5-23-2000 by Ord. No. 00-19]**

A. Industrial waste; hazardous waste, liquid waste; laboratory and pathological waste; waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on residential or commercial buildings, pavements or other structures; tree trunks, large tree limbs and tree stumps; earth and stones; and any other material which is prohibited for disposal at the solid waste facilities designated by the county for use by the Township.

B. Recyclable materials as defined by this section.

SOLID WASTE COLLECTION — The collection and transportation of solid waste, as defined by this article, from its source or location to a disposal site or other applicable resource recovery facility. All residential sources, including condominiums and institutional sources, shall be placed at the curbside for collection, unless the Director of Community Services determines that collection from noncurbside areas is feasible with the collection personnel and equipment of the Department of Community Services. Such determination shall be made after review of the size, character and width of the access roads and turnaround areas at each location and the public interest in keeping as much refuse from the curbside as possible. Cardboard boxes containing refuse shall not be placed at the curbside from these sources.[**Amended 2-29-1988 by Ord. No. 88-1; 1-24-1989 by Ord. No. 89-1; 5-26-1998 by Ord. No. 98-19; 5-23-2000 by Ord. No. 00-19; 8-19-2003 by Ord. No. 03-51; 6-15-2004 by Ord. No. 04-34]**

VEGETATIVE WASTE — Lawn and garden materials, including leaves, grass and hedge clippings, small tree limbs and branches.

§ 292-20. Wastes subject and not subject to collection. [Amended 5-23-2003 by Ord. No. 00-19]

A. Types of solid waste collection. The following types of refuse shall be subject to solid waste collection, as provided for in this article:

- (1) Garbage.
- (2) Refuse.
- (3) Bulky waste.
- (4) Vegetative wastes, including:
 - (a) Grass clippings, small tree limbs, hedge clippings and other related garden waste.
 - (b) Leaves, as provided for in § 292-26 herein.

B. The following items shall not be subject to solid waste collection:

- (1) Recyclable materials as follows:

- (a) Uncontaminated newspapers.
 - (b) Glass containers.
 - (c) All-aluminum beverage containers.
 - (d) Household appliances, such as stoves and refrigerators.
 - (e) Tires. [Added 10-3-1989 by Ord. No. 89-35]
 - (f) Tin cans. [Added 10-17-1989 by Ord. No. 89-39; amended 5-15-1990 by Ord. No. 90-20]
 - (g) Plastic containers, as determined by the Director. [Added 10-17-1989 by Ord. 89-39; amended 5-15-1990 by Ord. No. 90-20]
 - (h) Mixed and office paper, as defined by § 292-8. [Added 5-15-1990 by Ord. No. 90-20]
 - (i) Used motor oil. [Added 5-15-1990 by Ord. No. 90-20]
- (2) Loose corrugated boxes in designated areas.
 - (3) All other items excluded under the definition of "solid waste" as set forth above.

§ 292-21. Suitable receptacles. [Amended 1-24-1989 by Ord. No. 89-1; 5-5-2009 by Ord. No. O-015-09]

Suitable receptacles for solid waste collection shall mean receptacles made of metal or rigid plastic, with a capacity of no more than 35 gallons, with handles, solidly constructed, so as to prevent spillage or leakage of contents, and weighing not more than 50 pounds when placed for collection. Paper bags and cardboard boxes are not suitable receptacles for garbage. All containers must be tightly covered, tied or sealed to prevent spillage or leakage and the intrusion of rainwater.

§ 292-22. Number of receptacles. [Amended 2-9-1988 by Ord. No. 88-1; 1-24-1989 by Ord. No. 89-1]

- A. Each residential or commercial establishment shall be responsible for providing a sufficient number of receptacles to contain accumulated waste for all its occupants.¹⁵³
- B. No more than three receptacles from any one residential unit may be placed out for collection on any single collection day.
- C. A maximum of two receptacles per collection day per condominium unit may be placed out for collection at the curbside.
- D. A maximum of one receptacle per collection day per residential unit of refuse resulting from minor construction work or building repair may be placed out for collection.
- E. All receptacles from multifamily dwellings, not authorized for containerized collection, qualifying hereunder must be placed at the curb for collection with a maximum number of two per dwelling unit on any one collection day.

153. Editor's Note: Former Subsection B, concerning rear-yard residential collection, which immediately followed this subsection, was repealed 8-19-2003 by Ord. No. 03-51. That ordinance also was repealed 8-19-2003 by Ord. No. 03-51. That ordinance also renumbered subsequent subsections.

- F. Any institutional source may, in lieu of disposal in metal or rigid plastic receptacles, place refuse out for collection in plastic bags with a minimum thickness of 3 1/2 mil with a capacity of no more than 35 gallons or weight of no more than 50 pounds and sealed to prevent spillage or leakage of contents which may be placed at the curb in a number not to exceed the number of receptacles, as set forth in § 292-21 above. The cleanup of any spillage or leakage from said plastic bags shall be the responsibility of the source placing the same out for collection. Any commercial or institutional source requiring more than semiweekly refuse collection or using more than eight receptacles on a single collection shall retain a private hauler to remove its refuse. Private haulers collecting from the curbside shall collect on the same day municipal collection occurs in the area affected. **[Amended 1-26-1993 by Ord. No. 92-59; 5-26-1998 by Ord. No. 98-19]**

§ 292-23. Placement of receptacles for collection. [Amended 2-19-1988 by Ord. No. 88-1; 10-3-1989 by Ord. No. 89-35; 3-8-1994 by Ord. No. 94-5; 5-26-1998 by Ord. No. 98-19]

- A. Receptacles and bulky wastes shall be placed at the curb or on any public right-of-way between the hours of 6:00 p.m. on the day preceding the scheduled collection day and 6:00 a.m. on the scheduled collection day. All receptacles must be removed from the curbside no later than 8:00 p.m. on the date of collection. No receptacle or bulky wastes shall be placed at the curb or on any public right-of-way prior to 6:00 p.m. on the day preceding the scheduled collection day. Receptacles and bulky wastes shall not be placed on the sidewalk or so as to interfere with, obstruct or impede pedestrian or vehicular circulation. **[Amended 5-23-2000 by Ord. No. 00-19; 8-19-2003 by Ord. No. 03-51; 5-5-2009 by Ord. No. O-015-09; 9-19-2017 by Ord. No. O-17-025]**
- B. Recyclable materials, including corrugated cardboard, shall be set at the curb between 6:00 p.m. on the day preceding the scheduled collection day and 6:00 a.m. on the designated collection day. All receptacles must be removed from the curbside no later than 8:00 p.m. on the date of collection. No recyclable materials, including corrugated cardboard, shall be placed at the curb prior to 6:00 p.m. on the day preceding the designated collection day. **[Amended 2-13-2001 by Ord. No. 01-08; 5-5-2009 by Ord. No. O-015-09]**
- C. For collection of household appliances (white goods) containing refrigerants, a fee of \$10 per appliance containing refrigerant shall be payable in advance to the Township, at which time a collection date shall be established, said sum to be payable at the Department of Community Services. **[Amended 6-15-2004 by Ord. No. 04-34]**
- D. Tires (up to the 1100 series) can be taken to the recycling drop-off site and will be disposed of for the fee of \$2 per tire without a rim and \$5 per tire on a rim, payable to the Department of Community Services. **[Amended 6-15-2004 by Ord. No. 04-34]**
- E. For rear yard refuse collection service, a fee of \$100 shall be payable per quarter for all residents who apply to the Director of Community Services and comply with the guidelines established by the Department of Community Services for implementation of this service. **[Added 8-19-2003 by Ord. No. 03-51; amended 6-15-2004 by Ord. No. 04-34; 7-7-2009 by Ord. No. O-031-09]**

§ 292-24. Bulky waste. [Amended 3-8-1994 by Ord. No. 94-5; 6-15-2004 by Ord. No. 04-34]

Items too large to be contained in a receptacle must be broken or reduced in volume and tied or bundled so that the greatest dimension is not more than three feet, except that sofas, chairs, mattresses and box springs will be accepted without being broken or bundled. No item or bundle shall weigh more than 75 pounds. No more than three bulky items will be accepted from any residential unit or commercial source without an appointment being made with the Department of Community Services prior to collection of the bulky items

from the curbside. The Director of Community Services reserves the right to reject any bulky item offered for collection if its disposal is prohibited at the facility designated by the county for use by the Township.

§ 292-25. Tree limbs and branches.

Loose wood, brush, tree limbs and branches shall be cut into three-foot lengths and tied in bundles weighing no more than 25 pounds each.

§ 292-26. Leaves. [Amended 6-26-1990 by Ord. No. 90-35; 5-23-2000 by Ord. No. 00-19; 6-15-2004 by Ord. No. 04-34; 10-11-2005 by Ord. No. 05-56]

Leaves within the Township of Montclair shall be collected only during the following time periods, in the manner set forth herein:

- A. From and during the period of October 15 through December 1, and from and during the period of April 1 to April 30, inclusive, residents may put out leaves for curbside collection only by utilizing biodegradable papers bags as approved by the Department of Community Services. Leaves will not be collected in plastic bags.
- B. Leaves shall not be raked or otherwise placed or deposited into any street or roadway.
- C. No branches, garden debris or other waste materials may be raked into the street at any time, unless so authorized by the Director of Community Services.

§ 292-27. Special requirements.

- A. Commercial sources. **[Amended 5-26-1998 by Ord. No. 98-19; 10-7-1997 by Ord. No. 97-45; 7-21-1998 by Ord. No. 98-32]**
 - (1) The Township shall not provide municipal collection or removal of any garbage, refuse or bulk waste from any commercial source. The owner, occupant or tenant of each such source shall be responsible for making arrangements for the removal of all garbage, refuse or bulk waste via a private scavenger or hauler.
 - (2) All commercial sources shall, if requested by the Township, document that its garbage, refuse and bulk waste are being picked up and disposed of by a licensed hauler. Such documentation shall be in the form of invoices and canceled checks and/or the hauler's DEP license number.
- B. Placement for collection. **[Amended 5-26-1998 by Ord. No. 98-19]**
 - (1) Collection from commercial sources shall be on Tuesdays and Fridays only, except where circumstances require more than two collections per week. When more than two collections per week are required, arrangements shall be made in advance and approved by the Director of Community Services. **[Amended 6-15-2004 by Ord. No. 04-34]**
 - (2) All commercial sources shall facilitate its collection of garbage, refuse and bulk waste on the days stated in Subsection B(1) above such that no solid waste shall be collected by the private hauler prior to 6:00 a.m. on the appointed collection day.
- C. Commercial establishments. **[Added 5-23-2000 by Ord. No. 00-19]**
 - (1) The following commercial establishments shall be required to maintain, within 10 feet of each public entranceway, a permanent receptacle container of a type approved by the Township and

in accordance with Township specifications:

- (a) All businesses that sell food or beverages (including tobacco products, candy and other allied products which may be suitable for immediate consumption).
- (2) Every owner, agent, lessee, tenant or occupant of every dwelling, commercial source or other premises where solid waste accumulates in the Township shall provide and maintain, in a suitable place on the premises, sufficient receptacles to contain the accumulated solid waste between collection periods.

D. Proof of service. [Added 8-7-2001 by Ord. No. 01-39]

- (1) In accordance with N.J.S.A. 40:66-5.1, solid waste collection services for multifamily residential sources and commercial and institutional sources involving private haulers must be in writing, thereby demonstrating such person to be lawfully providing solid waste collection services within the Township of Montclair. Said contract shall contain a statement that the collection of solid waste generated at these premises shall be conducted in the manner provided for by this chapter.
- (2) Collection of both solid waste and recyclable material by private haulers, subject to Subsection D(1) above, shall be made no earlier than 6:00 a.m. on the appropriate collection day. These specified operating hours are hereby included and are intended to preserve the peace and quiet in Township neighborhoods during the hours when most residents are asleep.

§ 292-28. Collection points. [Amended 10-17-1989 by Ord. No. 89-39; 6-15-2004 by Ord. No. 04-34; 9-29-2015 by Ord. No. O-15-028]

Glass containers, aluminum cans, tin/steel cans, plastic containers, mixed paper, corrugated cardboard and uncontaminated newspapers will be collected curbside. Household appliances in residential areas will be collected per § 292-23. Tires will be accepted at the dropoff site for a designated fee. Computers and electronics will be accepted at the dropoff site on designated days and times. The bulky waste dropoff dates and the fee for tires are to be established by the Director of Community Services. [NOTE: The type of plastic containers to be collected for recycling, dropoff dates and sites will be determined by the Director of Community Services.]

§ 292-29. (Reserved)¹⁵⁴

§ 292-30. Deposits on public or private property.

- A. No person shall throw, drop, dump, tow or otherwise place any form of waste, litter, abandoned automobile, automobile parts or any excavated materials on any public property or on any private property owned by another or otherwise contrary to the provisions of this article. **[Amended 2-19-1991 by Ord. No. 91-6]**
- B. Recycling drop-off site. It shall be a violation of this article for any person to deposit any material other than the recyclable materials designated in § 292-19, the containers in which such recyclables were delivered or the following items: sheet glass, scrap metals, kraft paper bags, high-grade ledger, mixed paper and computer printout paper or used motor oil at the recycling drop-off site at any time. **[Amended 5-23-2000 by Ord. No. 00-19]**

154. Editor's Note: Former § 292-29, Collection of recyclable materials, was repealed 9-29-2015 by Ord. No. O-15-028. See now Art. II, Newspapers, Glass and Other Recyclables.

§ 292-31. Interference with Township employees or agents.

No person shall prevent or interfere with any Township employee or agent in the discharge of his/her duties in inspecting for the proper placement of receptacles or in recyclable material for collection or the sweeping or cleaning of any street or in the removal of sweepings, snow, ice or other refuse material or in the removal of solid waste or recyclable materials.

§ 292-32. Responsibilities of property owners, business operators, landlords and tenants.

- A. Property owners, business operators, landlords and tenants of a property shall each have all the duties and responsibilities prescribed in this article; and no property owner, business operator, landlord or tenant shall be relieved from such duties or responsibilities by reason of the fact that the other of them or the occupant is also responsible therefor and in violation thereof.
- B. Contract not to alter responsibilities. The respective duties and responsibilities imposed hereunder on the property owner, business operator, landlord or tenant shall not be altered or affected by any agreement or contract to which one or more of them is or are a party or parties.

§ 292-33. Violations and penalties. [Amended 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

ARTICLE V

Refuse Containers and Dumpsters**[Adopted 5-24-2011 by Ord. No. O-11-024]****§ 292-34. Purpose.**

The purpose of this article is to require dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and to prohibit the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Township of Montclair and/or the waters of the state so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 292-35. Definitions; word usage.

- A. For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning.
- B. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Township of Montclair or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

REFUSE CONTAINER — Any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

STORMWATER — Any water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow-removal equipment.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 292-36. Covering of containers and dumpsters; prevention of leaks and discharges.

- A. Every refuse container or dumpster must be covered at all times so as to prevent refuse from spilling out or overflowing.
- B. No container or dumpster shall leak or otherwise discharge liquids, semi-liquids or solids into the municipal separate storm sewer system(s) operated by the Township of Montclair. Any person who owns, leases or otherwise uses a refuse container or dumpster shall be responsible for compliance with the foregoing prohibitions.

§ 292-37. Exceptions.

Exceptions are as follows:

- A. Permitted temporary demolition containers.
- B. Litter receptacles (other than dumpsters or other bulk containers).
- C. (Reserved)¹⁵⁵
- D. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
- E. Large bulky items (e.g., furniture, bound carpet and padding, white goods) placed curbside for pickup.

§ 292-38. Enforcement.

This article shall be enforced by the Department of Administration, Code Enforcement and Environmental Affairs.

§ 292-39. Violations and penalties.

Any person who violates any provision of this article shall, upon conviction thereof, be punished by a fine not exceeding \$2,000.

§ 292-40. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

155. Editor's Note: Former Subsection C, which provided an exception for individual homeowner trash and recycling containers, was repealed 8-16-2011 by Ord. No. O-11-44.

SPECIAL IMPROVEMENT DISTRICTS

Chapter 293

SPECIAL IMPROVEMENT DISTRICTS

**[HISTORY: Adopted by the Council of the Township of Montclair as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

Montclair Center Special Improvement District
[Adopted 2-19-2002 by Ord. No. 02-04]

§ 293-1. Establishment of district.

- A. There is hereby created and designated within the Township of Montclair the Montclair Center Special Improvement District (the district), hereinafter designated by street address and tax lot and block number as set forth on Exhibit A attached hereto.¹⁵⁶ All the costs of development, construction, and acquisition relating to the provision of improvements within the special improvement district not borne by federal, state, county or local government shall be assessed or taxed to properties specially benefited thereby, as provided by N.J.S.A. 40:56-65 et seq. The improvements and facilities of the district shall be operated and maintained, and the annual costs thereof shall be assessed or taxed to properties specially benefited thereby pursuant to the provisions of this article and N.J.S.A. 40:56-80 or N.J.S.A. 40:56-85.
- B. The special assessment rate in the district shall not exceed 10% of the total of the prior year's local, county and school tax rates.
- C. Tax exempt properties are hereby excluded from the foregoing special assessments, except as provided in Subsection D below. Properties exclusively in residential use are also excluded from the foregoing special assessment. All other properties within the designated district, including those of a mixed residential and commercial use, shall be subject to the special assessment provided by the article. Residential portions of a mixed use shall not be excluded from the special assessment. **[Amended 3-20-2012 by Ord. No. O-12-18]**
- D. Properties subject to and tax exempt by virtue of a financial agreement requiring the property to make payments in lieu of taxes (PILOT) shall not be excluded from and are expressly included in the special assessments authorized by this chapter, so long as such property is not excluded for a reason other than tax exemption granted by such financial agreement. Notwithstanding the PILOT tax exemption, the values of such properties, for purposes of calculating the special assessment payable, shall be the amounts shown on the current year's Real Property Tax List in the column headed "(5) Land - Improvements-Total." **[Added 3-20-2012 by Ord. No. O-12-18]**

§ 293-2. Establishment of district management corporation.

There is hereby created a district management corporation which shall be known as the "Montclair Center Corporation" (the Corporation), which shall exercise the following powers:

- A. Adopt bylaws for the regulation of its affairs and the conduct of its business, and prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- B. Employ such persons as may be required, and fix and pay their compensation from funds available to the Corporation;
- C. Apply for, accept, administer, and comply with the requirements respecting an appropriation of funds or a gift, grant, or donation of property or money;
- D. Make and execute agreements which may be necessary or convenient to the exercise of powers and functions of the corporation, including contracts with any person, firm, corporation, governmental

156.Editor's Note: Said exhibit is on file in the Township offices.

agency or other entity;

- E. Administer and manage its own funds and accounts and pay its obligations;
- F. Borrow money from private or institutional lenders for periods not to exceed 180 days and from governmental entities for that or longer periods;
- G. Fund the improvement and/or rehabilitation of the exterior appearance of properties in the district through grants or loans;
- H. Accept, purchase, rehabilitate, sell, lease, or manage property in the district;
- I. Enforce the conditions of any loan, grant, sale, or lease made by the Corporation;
- J. Provide security, sanitation, and other services to the district supplemental to those provided normally by the municipal government;
- K. Undertake improvements designed to increase the safety or attractiveness of the district to businesses which may wish to locate there or to visitors to the district, including, but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, and those improvements generally permitted for pedestrian malls under N.J.S.A. 40:56-66 pursuant to pertinent regulations of the Township Council;
- L. Publicize the district and businesses included within the district boundaries;
- M. Recruit new businesses to fill vacancies in, and to balance the business mix of, the district;
- N. Organize special events in the district;
- O. Provide special parking arrangements for the district subject to prior Township Council approval; and
- P. Provide temporary decorative lighting in the district.

§ 293-3. Annual budget.

- A. Each year the Township Manager shall receive no later than March 1 a detailed budget from the district management corporation, setting forth an estimate of the cost of operating, maintaining and annually improving the district for the next fiscal year. Such estimate shall be reasonably itemized and shall include a summary of the categories of cost properly chargeable in accordance with N.J.S.A. 40:56-80. The Township Manager shall submit this detailed annual budget together with his comments for approval by the Township Council by March 5 of each year. Final approval shall be evidenced by a resolution passed by not less than a majority of the full membership of the Council, after the requirements of N.J.S.A. 40:56-84 have been complied with.
- B. The budget to be delivered to the Township Manager shall include a report which explains how the budget contributes to the goals and objectives of the special improvement district.
- C. Prior to the delivery of the budget to the Township Manager, the district management corporation shall hold a special budget hearing, notice of which shall be sent to all members of the district at least 10 days before such hearing. A record of the comments received at this meeting shall be delivered to the Township Manager with the proposed budget to be delivered to the Township Council for use in its deliberations.

§ 293-4. District management corporation board.

A. The Corporation shall be governed by a Board of Directors consisting of 21 members comprised of the following:

- (1) Two members of the Montclair Township Council (the Township Council Directors) to be appointed by the Township Council;
- (2) Seven persons who are owners of assessed real estate within the district, or officials of a corporation or entity owning assessed real estate within the district, at least one of whom shall be located in the 3rd Ward and at least one of whom shall be located in the 4th Ward (the owner directors);
- (3) Seven persons who operate a business within the district, at least one of whom shall be located in the 3rd Ward and at least one of whom shall be located in the 4th Ward (the business directors);
- (4) One at large director who shall not be an owner of assessed real estate within the district or the owner or operator of a business within the district (the at large director);
- (5) One person who shall be an officer or director of a nonprofit organization having its principal office located in the district (the nonprofit director);
- (6) One person who shall be the owner of property within the district and/or the operator of a business within the district, to be appointed by the Montclair branch of the West Essex Chamber of Commerce (the Chamber of Commerce director);
- (7) One person who shall be the owner of property within the district and/or the operator of a business within the district, to be appointed by the Montclair Downtown Alliance or its successor (the MDA director); and
- (8) One person who shall be the owner of property within the district and/or the operator of a business within the district; or an employee of the MEDC; to be appointed by the Montclair Economic Development Corporation (the MEDC director).
- (9) In addition, the Township Manager or his/her designee shall be an ex officio nonvoting member of the Board of Directors.

B. Terms.

- (1) The terms of the of the Board of Directors shall be as follows:
 - (a) The initial Board of Directors shall be chosen by the incorporators of the Corporation and the two designated Township Council directors at its organizational meeting to be held within 30 days of the date of final adoption of this article.
 - (b) The at large director, the nonprofit director, two owner directors and two business directors shall serve for a one-year term; two owner directors and three business directors shall serve for a two-year term; and three owner directors and two business directors shall serve for a three-year term.
- (2) Upon the expiration of the terms of the initial members of the Board of Directors, the terms of all subsequent members of the Board of Directors shall be three-year terms, except for the at large director who shall serve for a term of one year.

C. Election of directors. The owner directors, business directors, at large director and nonprofit director

shall be elected by majority vote of the members of the Corporation present and voting at the annual meeting of the Corporation. All property owners within the district, and tenants of assessed properties within the district who have registered with the Corporation, shall be members of the Corporation.

- D. At least one Township Council director shall serve on the nominating committee of the Corporation at all times.

§ 293-5. District management Advisory Board.

Upon resolution of the district management corporation, there shall be an Advisory Board of no more than 25 members. The term of office and manner of appointment shall be provided for in the bylaws of the Corporation.

§ 293-6. Activities of the district management Advisory Board.

The Advisory Board shall assist the Board of Directors of the district management corporation by providing advice to the Board of Directors in development of the annual program, plan and budget for the Corporation, and shall provide ongoing advice and counsel to the Board of Directors as requested by the Board of Directors.

§ 293-7. Plan of coordination.

The services already provided to the district through the general revenues of the Township of Montclair may continue to be provided through such general revenues and not be transferred to the budget of the Corporation or may, in whole or in part, be provided by the district management corporation; these services are to be detailed in the plan of coordination which shall be developed by the Board of the district management corporation in consultation with the Township Council and approved annually by the Board of Directors and the Township Council and which shall specify how these services are to be provided, and how the cost thereof shall be allocated.

§ 293-8. Annual audit.

The Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Township Council of the Township of Montclair, and for that purpose, the Corporation shall employ a certified public accountant of the State of New Jersey. The annual audit shall be completed and filed with the governing body within four months after the close of the fiscal year of the corporation.

§ 293-9. Annual report.

The Corporation shall, within 30 days after the close of the fiscal year, make an annual report of its activities for the preceding fiscal year to the Township Council.

§ 293-10. Termination. [Amended 12-28-2006 by Ord. No. 06-77; 11-14-2011 by Ord. No. 0-11-068; 2-21-2017 by Ord. No. O-17-006¹⁵⁷]

The district and the Corporation shall continue in existence from year to year, unless an ordinance is passed by the Township Council terminating either the Montclair Center Corporation (MCC) or the Special Improvement District (SID), or both. Upon such termination, or earlier dissolution, the Township of Montclair shall acquire title to the assets and assume the liabilities of the Corporation.

¹⁵⁷.Editor's Note: This ordinance provided an effective date of 1-1-2017.

§ 293-11. Municipal powers retained.

Notwithstanding the creation of a special improvement district authorized hereby, the Township of Montclair expressly retains all its powers, responsibility and authority over the area designated herein and any delegation thereof must be expressly approved by the Township Council in an authorized writing.

§ 293-12. Conflicts or inconsistent provisions.

All ordinances or sections in conflict or inconsistent with any part of this article are hereby repealed to the extent that they are in conflict or are inconsistent with the provisions hereof.

§ 293-13. Severability.

In the event that any section, part, or provision of this article is found to be unconstitutional or invalid by any court, such holding shall not affect the validity of this article as a whole, or any part thereof, other than the part so held unconstitutional or invalid.

§ 293-14. When effective.

This article shall take effect after passage and publication as soon as and in the manner permitted by law.

ARTICLE II

Downtown Business Improvement Zone
[Adopted 3-9-2010 by Ord. No. O-10-005]

§ 293-15. Purpose.

The purpose of this article is to:

- A. Promote economic growth and employment within the business district and in particular the Special Improvement District;
- B. Foster and encourage self-help programs to enhance the local business climate; and
- C. Authorize, permit and facilitate the Montclair Center Special Improvement District and the designated district management corporation of the district to apply for and accept funds or loans from the State of New Jersey, Department of Community Affairs for Public Improvements, as contemplated and defined by N.J.S.A. 40:56-71.1 et seq.;

§ 293-16. Creation of zone.

There is hereby created and designated within the Township of Montclair a Downtown Business Improvement Zone that shall be coextensive with the Special Improvement District established by the Township Council of the Township of Montclair by Ordinance No. 02-04 (Chapter 293, Article I, of the Township Code).

ARTICLE III

Seymour Street Pedestrian Plaza**[Adopted 1-23-2018 by Ord. No. O-18-001]****§ 293-17. Definitions.**

The following terms shall have the meanings indicated:

PEDESTRIAN MALL or MALL — Pursuant to N.J.S.A. 40:56-65 et seq., any local improvement designed to be used primarily for the movement, safety, convenience and enjoyment of pedestrians, whether or not a part of a street is set apart for roadway or emergency vehicles, transit vehicles and private vehicles, or any of them. A pedestrian mall improvement shall include, but not be limited to, pedestrian thoroughfares, perimeter parking, public seating, park areas, outdoor cafes, shelters, trees, flower plantings, sculpture, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting, ornamental signs, ornamental lights, trash receptacles, display cases, marquees, awnings, canopies, overhead radiant heating fixtures, underground radiant heating pipes and devices, walls, bollards and chains and all such other fixtures, equipment, facilities and appurtenances which in the judgment of the governing body of a municipality will enhance the movement, safety, convenience and enjoyment of pedestrians and benefit the municipality and adjoining properties.

USE AND ACCESS AGREEMENT — The agreement authorized by Resolution R-17-022 and recorded with the Register of Essex County.

§ 293-18. Findings.

The Mayor and Council find and declare:

- A. The Township of Montclair may undertake development and maintenance of a pedestrian mall as a local improvement pursuant to this act and provisions of N.J.S.A. 40:56-69 et seq.
- B. That a pedestrian mall as more specifically described in § 293-19 below will enhance the movement, safety, convenience and enjoyment of pedestrians as well as to accomplish the goals of the Seymour Street Redevelopment Plan.
- C. That Seymour Street running south from Bloomfield Avenue is not a part of any state highway, and that portion of Seymour Street described herein is located primarily in a business district and is improved to its maximum feasible width with regard to adjoining buildings and improvements.
- D. That a reasonably convenient alternate route to other parts of the Township and state exist for private vehicles.
- E. That continued unlimited use of the street or part thereof by private vehicles may constitute a hazard to the health and safety of pedestrians and impede the implementation of the Seymour Street Redevelopment Plan.
- F. That abutting properties can reasonably and adequately be provided with emergency vehicular services and receive and deliver merchandise and materials from other streets and alleys or by provisions for limited use of the streets by emergency vehicles and carriers of such merchandise and materials.
- G. That it is in the best interests of the Township and the public and of benefit to adjacent properties to use such street primarily for pedestrian purposes as contemplated by the Use and Access Easement Agreement, the Seymour Street Redevelopment Plan and the September 25, 2017, resolution of the

Township Planning Board granting preliminary and final site plan approval for the Seymour Street Plaza (the "Planning Board Resolution"), and that pedestrian use is determined to be the highest and best use of such street or part thereof.

§ 293-19. Declarations.

- A. Pedestrian mall shall be created on a portion of Seymour Street as indicated on the metes and bounds description dated January 31, 2017, prepared by Blue Marsh Associates, Inc., and shown as the "Easement Area" on the accompanying map, both which are annexed hereto and incorporated herein. The pedestrian mall shall be called "Seymour Street Plaza."
- B. The use of the surface of the Seymour Street Plaza shall be limited at all times to pedestrians and also emergency, public works, and other maintenance and service vehicles as required, as well as other vehicles that are explicitly permitted by the Township as contemplated by and in accordance with the terms of the Use and Access Easement Agreement, the Seymour Street Redevelopment Plan and the Planning Board Resolution.
- C. There shall be no limit of vehicular use on Bloomfield Avenue.
- D. The Township acknowledges that there is access to other streets for delivery of or receiving merchandise or materials.
- E. The Township relies on the provisions, findings, and recommendations of the Seymour Street Redevelopment Plan, adopted by ordinance on September 6, 2016, to constitute the studies contemplated by N.J.S.A. 40:56-70.

§ 293-20. Uses of Seymour Street Plaza; control and regulation.

- A. The use and operation of the Seymour Street Plaza shall be governed by the Use and Access Easement Agreement and will provide for the control and regulation of, among other things:
 - (1) The distribution and location of movable furniture, sculpture or pedestrian traffic control devices, landscaping and other facilities belonging to the mall and not otherwise located or fixed by plans and specifications.
 - (2) The uses to be permitted on the mall by occupants of abutting property.
 - (3) The issuance of permits to conduct any special activity(ies) or operation(s) consistent with the broad purposes of the mall as contemplated by and in accordance with the terms of the Use and Access Easement Agreement, the Seymour Street Redevelopment Plan and the Planning Board Resolution.
 - (4) The operation of any heating or other facilities and replacing landscaping and maintaining furniture and facilities in the mall.
 - (5) Specifically reserved uses of the mall or portions thereof.
 - (6) A limited amount of local vehicle traffic in order to allow for deliveries, pickups and/or other loading and unloading of personnel, materials, or other goods as contemplated by and in accordance with the terms of the Use and Access Easement Agreement, the Seymour Street Redevelopment Plan and the Planning Board Resolution.
- B. The following shall be in effect at all times within the Seymour Street Plaza:

- (1) Except as provided in Subsection B(3) below, any person(s) creating undue amounts of noise, waste, and/or a potentially dangerous or threatening environment for any mall patrons will be subject to removal from the pedestrian mall and subject to additional penalties allowed by law, if applicable.
- (2) No person may loiter in the pedestrian mall between the hours of 12:00 midnight and 6:00 a.m.
- (3) Amplified music or other amplified sounds shall not be allowed on or within 50 feet of the Seymour Street Plaza except in connection with a program or activity authorized by the Township, including, but not limited to, the events provided for by the Use and Access Easement Agreement and the Planning Board Resolution. Any other limits on music or noise (including, without limitation, maximum permitted decibel levels) that would otherwise be applicable to Seymour Street with or without the establishment of the mall shall remain in full force and in effect within this area.

§ 293-21. Operations.

- A. The Seymour Street Plaza shall be operated and maintained pursuant to the regulations and restrictions set forth in this article and the Use and Access Easement Agreement.

§ 293-22. Specifications for construction.

The Seymour Street Plaza shall be constructed in accordance with the Planning Board Resolution, and, where applicable, the Use and Access Easement Agreement.

§ 293-23. Municipal powers retained.

- A. Notwithstanding the improvement of any street as a pedestrian mall, the Township of Montclair shall retain all its powers relating to the street or part thereof constituting the mall.
- B. No such action shall be construed as a vacation in whole or in part; the establishment of the Seymour Street Plaza is a matter of regulation only.
- C. Nothing herein shall limit or alter the terms of the Use and Access Easement Agreement, or prohibit any subsequent agreement impacting the use or operation of the pedestrian mall.

Chapter 294**STEEP SLOPES**

[HISTORY: Adopted by the Township Council of the Township of Montclair 10-6-1998 by Ord. No. 98-39. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 121.

Site plan review — See Ch. 281.

Flood hazard areas — See Ch. 161.

Subdivision of land — See Ch. 301.

Land use procedures — See Ch. 202.

Zoning — See Ch. 347.

§ 294-1. Purpose.

It is the purpose of this chapter to protect the health, safety and welfare of people and property within the Township from improper construction, building and development on steep slope areas in the Township and, more particularly but without limitations, to reduce the peculiar hazards which exist on steep slopes by reason of erosion, siltation, flooding, soil slippage, surface water runoff, pollution of surface and ground water supplies from non-point sources and destruction of unique and predominant views. It is a further purpose of this chapter to encourage appropriate planning, design and development of sites within steep slope areas which preserve and maximize the most appropriate use of the natural terrain in recognition of environmental constraints.

§ 294-2. Applicability.

The provisions of this chapter shall apply to the following:

- A. All subdivisions and site plans on steep slopes and all approvals thereof.
- B. All new construction on steep slopes, including principal building additions or accessory structures, which exceeds 200 square feet of building area.
- C. All new impervious surfaces on steep slopes which exceed 200 square feet in area, including patios, driveways, parking areas, etc.
- D. All grading or removal of vegetation on steep slopes which exceeds 1,000 square feet in area.

§ 294-3. Definitions.

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

STEEP SLOPE — Any average slope exceeding 10%.

AVERAGE SLOPE — The difference between highest and lowest ground elevation on opposite sides or boundaries of an existing or proposed lot divided by the minimum horizontal distance between such high and low points.

SITE DISTURBANCE — Grading, tree and vegetation removal, building of structures, creation of impervious surfaces or other related activities which result in changes to the land surface.

DIAMETER AT POINT OF MEASUREMENT (DPM) — The point of measurement six inches above the ground surface measured on the downhill side of the tree.

§ 294-4. Jurisdiction.

- A. All steep slope development in connection with an application before the Planning or Zoning Board shall be reviewed by the Planning or Zoning Board Engineer. Recommendations relating thereto shall be provided to the reviewing board prior to that board rendering a decision.
- B. All other activities on steep slopes shall be reviewed by the Township Engineer.

§ 294-5. Submission requirements.

All plans shall be at a scale of one inch equals 20 feet and prepared by a New Jersey licensed engineer or architect. All existing topographic and boundary information must be prepared by a New Jersey licensed land surveyor. A complete application shall contain the following:

- A. Boundary survey.
- B. Area calculations of site disturbance.
- C. Existing and proposed topographic plans utilizing two-foot contours for the subject lot and 50 feet beyond the property lines.
- D. Existing and proposed drainage systems, on site and off site, 50 feet beyond the property lines.
- E. Drainage calculations, showing preconstruction and postconstruction runoff rates and velocities.
- F. Rock outcroppings.
- G. Type of vegetative cover.
- H. Individual trees greater than six inches in diameter at point of measurement.
- I. Existing and proposed buildings and structures above and below the surface.
- J. Existing and proposed impervious surfaces.
- K. Limits of all site disturbance.
- L. Location and description as to the extent of any waterways, wetlands or springs, continuing or intermittent.
- M. Any other engineering data which shall be deemed reasonably necessary by the reviewing engineer.
- N. All applicable data required by the New Jersey Residential Site Improvement Standards for residential developments.

§ 294-6. Standards of approval.

In order to obtain engineering approval, each applicant shall submit plans, reports and calculations designed to demonstrate and accomplish or further the following standards:

- A. Control velocity and rate of water runoff from the proposed developed site so that such velocity and rate are no greater after development than before development, unless a more stringent standard is

contained in the New Jersey Residential Site Improvement Standards, in which instance the more stringent provision shall apply.

- B. Provide for the proper disposition of surface water runoff so that it will not create unstable conditions downstream and on adjacent properties. Appropriate storm drainage facilities shall be constructed as deemed necessary by the reviewing engineer.
- C. Stabilize all fill placed on the lot by retaining walls or other appropriate structures as approved by the reviewing engineer when, in the opinion of the engineer, normal mulching and vegetation establishment will not suffice.
- D. Establish vegetation sufficient to stabilize the soil on all disturbed areas as each stage of grading is completed. All disturbed soil surfaces shall be stabilized or covered prior to the first day of November if the planned impervious surface (e.g. roads, drives, etc.) cannot be established prior to November. A temporary treatment adequate to prevent erosion shall be installed on those surfaces.
- E. Reestablish vegetation on disturbed areas. Exposed graded areas shall be mulched and seeded to provide a basic ground cover which will prevent erosion.
- F. Meet all Building Code requirements where structures and/or retaining walls are involved.
- G. Prevent soil slippage.
- H. Minimize number and extent of excavations to prevent groundwater discharge to surfaces.
- I. Preserve maximum number of trees and other vegetation on the site consistent with reasonable use and erosion control procedures.
- J. Conform to standards for steep slope control contained herein and the Standards for Soil Erosion and Sediment Control adopted by the New Jersey State Soil Conservation Committee.

§ 294-7. 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.

Chapter 295**STORMWATER CONTROL**

[HISTORY: Adopted by the Council of the Township of Montclair 2-16-2021 by Ord. No.

O-21-02.¹⁵⁸ Amendments noted where applicable.]

§ 295-1. Scope and purpose.

- A. Policy statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure best management practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- B. Purpose. The purpose of this chapter is to establish minimum stormwater management requirements and controls for "major developments" and "minor developments," as defined below in § 295-2.
- C. Applicability.
 - (1) This chapter shall be applicable to the following major developments:
 - (a) Nonresidential major developments;
 - (b) All residential major developments; and
 - (c) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 - (2) This chapter shall be applicable to all residential and nonresidential minor developments.
 - (3) This chapter shall also be applicable to all major and minor developments undertaken by the Township of Montclair.
 - (4) An application required by ordinance pursuant to Subsection C(1) above that has been submitted prior to June 11, 2024, shall be subject to the stormwater management requirements in effect on June 10, 2024. **[Added 6-11-2024 by Ord. No. O-24-22]**
 - (5) An application required by ordinance for approval pursuant to Subsection C(1) above that has been submitted on or after March 2, 2021, but prior to June 11, 2024, shall be subject to the stormwater management requirements in effect on June 10, 2024. **[Added 6-11-2024 by Ord. No. O-24-22]**
 - (6) Notwithstanding any rule to the contrary, a major development for any public roadway or railroad project conducted by a public transportation entity that has determined a preferred alternative or reached an equivalent milestone before July 17, 2023, shall be subject to the stormwater management requirements in effect prior to July 17, 2023. **[Added 6-11-2024 by**

158.Editor's Note: This ordinance also superseded former Ch. 295, Stormwater Control, adopted 5-9-2006 by Ord. No. 06-18, as amended.

Ord. No. O-24-22]

- D. Compatibility with other permit and ordinance requirements. Development approvals issued pursuant to this chapter are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except that, where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 295-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

CAFRA CENTERS, CORES OR NODES — Those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

CAFRA PLANNING MAP — The map used by the Department to identify the location of coastal planning areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

CAMPUS REDEVELOPMENT — A redevelopment application submitted that involves multiple adjacent/contiguous lots under common ownership or multiple structures on the same lot which already contains development, in which the applicant proposes to phase development over a period of time. In such cases, each building or phase is not required to have individualized stormwater management, so long as the overall proposal addresses stormwater management in accordance with this chapter and the stormwater management improvements are constructed in the first phase of the project.

COMMUNITY BASIN — An infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this chapter.

COMPACTION — The increase in soil bulk density.

CONTRIBUTORY DRAINAGE AREA — The area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

CORE — A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY — An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinances. The county review agency may either be:

- A. A county planning agency; or
- B. A county water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DEPARTMENT — The New Jersey Department of Environmental Protection.

DESIGN ENGINEER — A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DESIGNATED CENTER — A State Development and Redevelopment Plan Center as designated by the State Planning Commission, such as urban, regional, town, village, or hamlet.

DEVELOPMENT —

- A. 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 structure, 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 is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- B. In the case of development of agricultural land, "development" means any activity that requires a state permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

DISTURBANCE — The placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

EMPOWERMENT NEIGHBORHOODS — Neighborhoods designated by the Urban Coordinating Council "in consultation and in conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

ENVIRONMENTALLY CONSTRAINED AREA — The following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership, such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

ENVIRONMENTALLY CRITICAL AREA — An area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

GREEN INFRASTRUCTURE — A stormwater management measure that manages stormwater close to its source by:

- A. Treating stormwater runoff through infiltration into subsoil;
- B. Treating stormwater runoff through filtration by vegetation or soil; or
- C. Storing stormwater runoff for reuse.

HUC 14 or HYDROLOGIC UNIT CODE 14 — An area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a fourteen-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION — The process by which water seeps into the soil from precipitation.

LEAD PLANNING AGENCY — One or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee, pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

LOW IMPACT DEVELOPMENT TECHNIQUES — Utilizing strategies and measures that manage stormwater runoff quantity and quality in the absence of structural stormwater measures, such as minimizing site disturbance, preserving natural vegetation and other important site features such as forests and especially core forests, reducing and disconnecting impervious cover, minimizing proposed ground slopes, utilizing native vegetation, minimizing turf grass lawns, revegetating areas, increasing time of concentration, and maintaining and enhancing natural drainage features and characteristics.

MAJOR DEVELOPMENT —

- A. An individual development, as well as multiple developments that individually or collectively result in:
 - (1) The disturbance of 1/2 acre or more of land since February 2, 2004;
 - (2) The creation of 1/4 acre or more of regulated impervious surface since February 2, 2004;
 - (3) The creation of 1/4 acre or more of regulated motor vehicle surface since March 2, 2021; or
 - (4) A combination of (2) and (3) above that totals an area of 1/4 acre or more. The same surface shall not be counted twice when determining if the combination area equals 1/4 acre or more.
- B. Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of Subsection A(1), (2), (3), or (4) of this definition. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

MINOR DEVELOPMENT — Any development that results in an increase in impervious surface of 250 or more square feet, but does not meet the definition of "major development," since February 16, 2021. Minor development includes both private and public projects or activities. **[Amended 6-11-2024 by Ord. No. O-24-22]**

MOTOR VEHICLE — Land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low-speed vehicles. For the purposes of this definition, "motor vehicle" does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

MOTOR VEHICLE SURFACE — Any pervious or impervious surface that is intended to be used by

motor vehicles and/or aircraft, and is directly exposed to precipitation, including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

MUNICIPALITY — Any city, borough, town, township, or village.

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL or BMP MANUAL — The manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with § 295-4F of this chapter and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this chapter.

NODE — An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT — A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON — Any individual, corporation, company, partnership, firm, association, political subdivision of this state and any state, interstate or federal agency.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 et seq.)], thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

PUBLIC ROADWAY OR RAILROAD — A pathway for use by motor vehicles or trains that is intended for public use and is constructed by, or on behalf of, a public transportation entity. A public roadway or railroad does not include a roadway or railroad constructed as part of a private development, regardless of whether the roadway or railroad is ultimately to be dedicated to and/or maintained by a governmental entity. **[Added 6-11-2024 by Ord. No. O-24-22]**

PUBLIC TRANSPORTATION ENTITY — A federal, state, county, or municipal government, an independent state authority, or a statutorily authorized public-private partnership program pursuant to P.L. 2018, c. 90 (N.J.S.A. 40A:11-52), that performs a public roadway or railroad project that includes new construction, expansion, reconstruction, or improvement of a public roadway or railroad. **[Added 6-11-2024 by Ord. No. O-24-22]**

RECHARGE — The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

REDEVELOPMENT — An activity that results in the creation, addition, or replacement of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure or a portion of a structure, regardless of footprint; and replacement of impervious surface area that is not part of a routine maintenance activity.

If a project is considered to be a development project, all new impervious cover, whether created by adding to or replacing impervious cover that was in existence before the redevelopment occurs, shall be considered in calculating the requirements for stormwater management. However, any such new impervious cover that will drain into an existing stormwater best management practice (BMP) that is to remain after the redevelopment and that meets current stormwater management requirements shall be deducted from the total amount of impervious surface that must be treated by new stormwater BMPs. In the case of a redevelopment project, the predevelopment land cover shall be considered to be wooded. Routine maintenance includes, but is not limited to, parking lot or driveway sealing or milling, roof repairs, and replacement of a small number of boards on a deck. Routine maintenance does not include complete replacement of deck boards or patio material.

REGULATED IMPERVIOUS SURFACE — Any of the following, alone or in combination:

- A. A net increase of impervious surface;
- B. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
- C. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- D. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

REGULATED MOTOR VEHICLE SURFACE — Any of the following, alone or in combination:

- A. The total area of motor vehicle surface that is currently receiving water;
- B. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

REPLACEMENT — The removal of a substantial portion of the framing and roofing of an existing structure or the removal and substitution of a substantial portion of existing pavement or other impervious material.

SEDIMENT — Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE — The lot or lots upon which a major development is to occur or has occurred.

SOIL — All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) — An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP — The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the Official Map of these goals and policies.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BMP — An excavation or embankment and related areas designed to

retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE — Any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

STORMWATER MANAGEMENT PLANNING AGENCY — A public body authorized by legislation to prepare stormwater management plans.

STORMWATER MANAGEMENT PLANNING AREA — The geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

STORMWATER RUNOFF — Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA — A flood hazard area in which the flood elevation resulting from the two-, ten-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD — A neighborhood given priority access to state resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES — A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

URBAN REDEVELOPMENT AREA — Defined as previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), designated centers, cores or nodes;
- B. Designated as CAFRA centers, cores or nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATER CONTROL STRUCTURE — A structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, ten-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

§ 295-3. Design and performance standards for stormwater management measures.

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
- (1) The minimum standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
 - (2) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this section apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules.

§ 295-4. Stormwater management requirements for major development.

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 295-10.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitats for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 13:1B-15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergii* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Subsections P, Q and R:
- (1) The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;
 - (2) The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Subsections O, P, Q and R may be obtained for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
- (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - (2) The applicant demonstrates, through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of Subsections O, P, Q and R to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of Subsections O, P, Q and R, existing structures currently in use, such as homes and buildings, would need to be

condemned; and

- (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under Subsection D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Subsections O, P, Q and R that were not achievable on site.
- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in Subsections O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2(f), Tables 5-1, 5-2 and 5-3, and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at: <https://dep.nj.gov/stormwater/bmpmanual/>. **[Amended 6-11-2024 by Ord. No. O-24-22]**
- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this chapter, the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

Table 1				
Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Cistern	0	Yes	No	—
Dry Well ^(a)	0	No	Yes	2
Grass Swale	50 or less	No	No	2 ^(e) 1 ^(f)
Green Roof	0	Yes	No	—
Manufactured Treatment Device ^{(a)(g)}	50 or 80	No	No	Dependent upon the device
Pervious Paving System ^(a)	80	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)

Table 1				
Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Small-Scale Bioretention Basin ^(a)	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-Scale Infiltration Basin ^(a)	80	Yes	Yes	2
Small-Scale Sand Filter	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	—

(Notes corresponding to annotations ^(a) through ^(g) are found following Table 3.)

Table 2				
Green Infrastructure BMPs for Stormwater Runoff Quantity (or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance from N.J.A.C. 7:8-5.3)				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Bioretention System	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Infiltration Basin	80	Yes	Yes	2
Sand Filter ^(b)	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond ^(d)	50-90	Yes	No	N/A

(Notes corresponding to annotations ^(b) through ^(d) are found following Table 3.)

Table 3				
BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device ^(h)	50 or 80	No	No	Dependent upon the device
Sand Filter ^(c)	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) Subject to the applicable contributory drainage area limitation specified at § 295-4O(2).
- (b) Designed to infiltrate into the subsoil.
- (c) Designed with underdrains.
- (d) Designed to maintain at least a ten-foot-wide area of native vegetation along at least 50% of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation.
- (e) Designed with a slope of less than 2%.
- (f) Designed with a slope of equal to or greater than 2%.
- (g) Manufactured treatment devices that meet the definition of "green infrastructure" at § 295-2.
- (h) Manufactured treatment devices that do not meet the definition of "green infrastructure" at § 295-2.

- G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with § 295-6B. Alternative stormwater management measures may be used to satisfy the requirements at Subsection O only if the measures meet the definition of "green

infrastructure" at § 295-2. Alternative stormwater management measures that function in a similar manner to a BMP listed at Subsection O(2) are subject to the contributory drainage area limitation specified at Subsection O(2) for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at Subsection O(2) shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Subsection D is granted from Subsection O.

- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
- (1) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
 - (2) Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 295-8C;
 - (3) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 5:21-7.4, and 5:21-7.5 shall be deemed to meet this requirement;
 - (4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at § 295-8; and
 - (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of 2 1/2 inches in diameter.
 - (6) The development design shall limit the creation of stormwater runoff through implementation of low impact development techniques to the extent technically practicable, without reduction of the allowable development, given the applicable zoning and other provisions of state law or regulation, or of municipal ordinance.

- J. Manufactured treatment devices may be used to meet the requirements of this section, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of "green infrastructure" at § 295-2 may be used only under the circumstances described at Subsection O(4).
- K. Any application for a new agricultural development that meets the definition of "major development" at § 295-2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Subsections O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Subsections P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge on site and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Essex County Registrar of Deeds and Mortgages. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Subsections O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to § 295-10B(5). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the Clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.
- N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to § 295-4 of this chapter and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Essex County Registrar of Deeds and Mortgages and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with Subsection M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with Subsection M above.
- O. Green infrastructure standards.
 - (1) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the

groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.

- (2) To satisfy the groundwater recharge and stormwater runoff quality standards at Subsections P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Subsection F and/or an alternative stormwater management measure approved in accordance with Subsection G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres
Pervious Pavement Systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale Bioretention Systems	2.5 acres
Small-scale Infiltration Basin	2.5 acres
Small-scale Sand Filter	2.5 acres

- (3) To satisfy the stormwater runoff quantity standards at Subsection R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with Subsection G.
- (4) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Subsection D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with Subsection G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Subsections P, Q and R.
- (5) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at Subsections P, Q and R, unless the project is granted a waiver from strict compliance in accordance with Subsection D.

P. Groundwater recharge standards.

- (1) This subsection contains the minimum design and performance standards for groundwater recharge as follows.
- (2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 295-5, either:
- (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater

management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or

- (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to post-construction for the projected two-year storm, as defined and pursuant to § 295-5D of this chapter, is infiltrated. **[Amended 6-11-2024 by Ord. No. O-24-22]**
- (3) This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject to Subsection P(4) below.
- (4) The following types of stormwater shall not be recharged:
 - (a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with a Department-approved remedial action work plan approved pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, or Department landfill closure plan and areas; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and **[Amended 6-11-2024 by Ord. No. O-24-22]**
 - (b) Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

Q. Stormwater runoff quality standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of 1/4 acre or more of regulated motor vehicle surface.
- (2) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
 - (a) Eighty percent TSS removal of the anticipated load, expressed as an annual average, shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
 - (b) If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load, expressed as an

annual average.

- (3) The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under an NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with Subsection Q(2) above, unless the major development is itself subject to an NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
- (4) The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm Distribution					
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000

Table 4 - Water Quality Design Storm Distribution					
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

- (5) If more than one BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

- R = total TSS percent load removal from application of both BMPs, and
 A = the TSS percent removal rate applicable to the first BMP
 B = the TSS percent removal rate applicable to the second BMP.

- (6) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of

nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in Subsections P, Q and R.

- (7) In accordance with the definition of "FW1" at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- (9) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95% of the anticipated load from the developed site, expressed as an annual average.
- (10) These stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

R. Stormwater runoff quantity standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 295-5, complete one of the following:
 - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected two-, ten-, and 100-year storm events, as defined and determined in § 295-5C and D, respectively, of this chapter, do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events; **[Amended 6-11-2024 by Ord. No. O-24-22]**
 - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the current and projected two-, ten-, and 100-year storm events, as defined and determined in § 295-5C and D, respectively, of this chapter, and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area; **[Amended 6-11-2024 by Ord. No. O-24-22]**
 - (c) Design stormwater management measures so that the post-construction peak runoff rates for the current and projected two-, ten-, and 100-year storm events, as defined and determined in § 295-5C and D, respectively, of this chapter, are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the

post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or **[Amended 6-11-2024 by Ord. No. O-24-22]**

- (d) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection R(2)(a), (b) and (c) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three, will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
- (3) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.
- (4) The site shall be designed to manage, through on-site retention, the 95th percentile storm. The management system shall be through the utilization of one or more green infrastructure techniques.

§ 295-5. Calculation of stormwater runoff and groundwater recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

- (1) The design engineer shall calculate runoff using the following method: The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: <https://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422> or at United States Department of Agriculture Natural Resources Conservation Service, New Jersey State Office, 220 Davison Avenue, Somerset, New Jersey 08873 **[Amended 6-11-2024 by Ord. No. O-24-22]**
- (2) For the purpose of calculating curve numbers and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "curve number" applies to the NRCS methodology above at § 295-5A(1). A curve number or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation). **[Amended 6-11-2024 by Ord. No. O-24-22]**
- (3) In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or

culverts, that may reduce preconstruction stormwater runoff rates and volumes.

- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds or other methods may be employed.
 - (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- B. Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at: <https://www.nj.gov/dep/njgs/pricelst/gsreport/gsr32.pdf> or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.
- C. The precipitation depths of the current two-, ten-, and 100-year storm events shall be determined by multiplying the values determined in accordance with Subsection C(1) and (2) below: **[Added 6-11-2024 by Ord. No. O-24-22]**
- (1) The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service's Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at:

[https://hdsc.nws.noaa.gov/hdsc/pfds/pfds map cont.html?bkmrk=nj](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds%20map%20cont.html?bkmrk=nj); and
 - (2) The applicant shall utilize Table 5: Current Precipitation Adjustment Factors below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 5: Current Precipitation Adjustment Factors			
County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Bergen	1.01	1.03	1.06
Essex	1.01	1.03	1.06
Hudson	1.03	1.05	1.09
Morris	1.01	1.03	1.06
Passaic	1.00	1.02	1.05

Table 5: Current Precipitation Adjustment Factors			
County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Union	1.01	1.03	1.06

- D. Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, ten-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, ten-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, ten-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to § 295-5C(1) above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below. **[Added 6-11-2024 by Ord. No. O-24-22]**

Table 6: Future Precipitation Change Factors			
County	Future Precipitation Change Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Bergen	1.20	1.23	1.37
Essex	1.19	1.22	1.33
Hudson	1.19	1.19	1.23
Morris	1.23	1.28	1.46
Passaic	1.21	1.27	1.50
Union	1.20	1.23	1.35

§ 295-6. Sources for technical guidance. [Amended 6-11-2024 by Ord. No. O-24-22]

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at: : <https://dep.nj.gov/stormwater/bmpmanual/>.
- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
 - (2) Additional maintenance guidance is available on the Department's website at: <https://dep.nj.gov/stormwater/bmpmanual/>.
- B. Submissions required for review by the Department should be mailed to: The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625- 0420.

§ 295-7. Solids and floatable materials control standards.

Site design features identified under § 295-4F above, or alternative designs in accordance with § 295-4G above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this section, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection B below.

A. Grates.

- (1) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (a) The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
 - (b) A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inch across the smallest dimension.
- (2) Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.
- (3) For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

B. The standard in Subsection A above does not apply:

- (1) Where each individual clear space in the curb opening in the existing curb-opening inlet does not have an area of more than nine square inches;
- (2) Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- (3) Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - (a) A rectangular space 4.625 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
 - (b) A bar screen having a bar spacing of 0.5 inch.
- (4) Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle-safe grates in new residential development [N.J.A.C. 5:21-4.18(b)2 and 5:21-7.4(b)1].

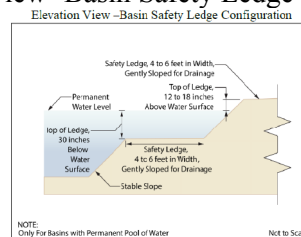
- (5) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in N.J.A.C. 7:8; or
- (6) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 295-8. Safety standards for stormwater management basins.

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in Subsection C(1), (2), and (3) for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for trash racks, overflow grates and escape provisions.
 - (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
 - (d) The trash rack shall be constructed of rigid, durable, and corrosion-resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
 - (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no greater than two inches across the smallest dimension. **[Amended 6-11-2024 by Ord. No. O-24-22]**
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
 - (3) Stormwater management BMPs shall include escape provisions as follows:

- (a) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to Subsection C, a freestanding outlet structure may be exempted from this requirement;
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than 2 1/2 feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See Subsection E for an illustration of safety ledges in a stormwater management BMP; and
 - (c) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.
- D. Variance or exemption from safety standard. A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.
- E. Safety ledge illustration.

Elevation View -Basin Safety Ledge Configuration



§ 295-9. Requirements for site development stormwater plan.

- A. Submission of site development stormwater plan.
- (1) Whenever an applicant seeks municipal approval of a development subject to this chapter, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at Subsection C below as part of the submission of the application for approval.
 - (2) The applicant shall demonstrate that the project meets the standards set forth in this chapter.
 - (3) The applicant shall submit three copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection C of this section.
- B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this chapter.
- C. Submission of site development stormwater plan. The following information shall be required:

- (1) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map, as appropriate, may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.
- (2) Environmental site analysis. A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- (3) Project description and site plans. A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.
- (4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of §§ 295-3 through 295-5 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- (5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - (a) Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- (6) Calculations.
 - (a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in § 295-9 of this chapter.
 - (b) When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be

determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

- (7) Maintenance and repair plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 295-10.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Subsection C(1) through (6) of this section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 295-10. Maintenance and repair.

A. Applicability. Projects subject to review as in § 295-1C of this chapter shall comply with the requirements of Subsections B and C.

B. General maintenance.

- (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
- (3) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable chapter or regulation.
- (4) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
- (5) If the party responsible for maintenance identified under Subsection B(3) above is not a public agency, the maintenance plan and any future revisions based on Subsection B(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- (6) Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence

repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

- (7) The party responsible for maintenance identified under Subsection B(3) above shall perform all of the following requirements:
 - (a) Maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
 - (b) Evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - (c) Retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Subsection B(6) and (7) above.
 - (8) The requirements of Subsection B(3) and (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
 - (9) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or county may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 295-11. Minor developments.

- A. The stormwater runoff requirements applicable to minor developments are as follows:
- (1) For each square foot of new impervious surface, two gallons of stormwater shall be retained and managed using green infrastructure practices set out in Table 1 below. **[Amended 6-11-2024 by Ord. No. O-24-22]**
 - (2) All such development shall be subject to review by the reviewing engineer to determine that all stormwater runoff created by the development is adequately controlled and does not cause an adverse impact to adjoining property owners.
 - (3) In such cases where it is determined that the outflow from the stormwater management system will impact an adjacent property, the outflow shall be directed to a storm sewer, gutter, swale, or other suitable stormwater runoff conveyance measure.
 - (4) If the reviewing engineer determines that the outflow from the stormwater management system will damage or negatively impact an adjacent property, and the outflow cannot be safely

directed to a storm sewer, gutter, swale, or other suitable stormwater runoff conveyance measure, the stormwater runoff from the development shall be retained on site at the rate of three gallons of storage for each square foot of new impervious surface using green infrastructure practices or such other measures as may be required by the Township Engineer.

- (5) If the applicant cannot comply with Subsection A(4) above, the proposal shall be redesigned, or reduced in scope so that the stormwater management measures do not damage or negatively impact an adjoining property.

Table 1: Minor Development BMP	
Grass Swale	Green Roof
Pervious Paving System	Small-Scale Bioretention Basin
Small-Scale Infiltration Basin	Small-Scale Sand Filter
Vegetative Filter Strip	Cistern
Dry Well*	

* The use of dry wells is allowed only where the other listed methods cannot feasibly meet the requirements of this section.

- B. Soil testing shall be performed to confirm the permeability of the soils and the depth of the water table and the seasonal high water table. Percolation/permeability testing shall be performed in the vicinity of the proposed systems to confirm that infiltration is viable for the site. All testing results and information shall be signed, sealed and prepared by a New Jersey licensed professional engineer and shall contain the following:
- (1) The seasonal groundwater table shall be confirmed at an elevation two feet or more below the proposed bottom of the minor development BMP, including any associated stone base.
 - (2) The tested permeability/percolation rates of the site shall be confirmed. Design percolation rates shall include a factor of safety of two, compared to the tested percolation rates, and shall be a minimum of 0.5 inch per hour.
 - (3) Calculations shall be provided confirming that the proposed BMP will fully drain within 72 hours.
 - (4) Should percolation/permeability testing yield unacceptable results, the applicant shall provide a revised design.
- C. Application submission requirements. **[Added 6-11-2024 by Ord. No. O-24-22¹⁵⁹**
- (1) Completed Impervious Coverage Calculation Certification Form.
 - (2) Signed and sealed location/topographic survey of the site prepared by a licensed New Jersey professional surveyor.
 - (3) Signed and sealed site plan prepared by a licensed New Jersey professional which shall be drawn on a scale not less than one inch equals 50 feet and not larger than one inch equals 10

159.Editor's Note: This ordinance also redesignated former Subsections C, D, and E as Subsections D, E, and G.

feet, and shall at a minimum show the following information:

- (a) Signature and certification of licensed New Jersey professional engineer and/or architect.
 - (b) Scale and north arrow.
 - (c) Existing and proposed site features, including, but not limited to, wooded areas, trees, structures, retaining walls, fences, driveways, patios, pools, walkways, waterways, etc.
 - (d) Limits and area calculations of disturbance.
 - (e) Existing topography and proposed grading at one-foot contour intervals. Additional spot elevations to be provided to define high/low points, drainage patterns, and finished grades at the corners of any structure.
 - (f) Existing and proposed impervious coverage area calculations.
 - (g) Existing and proposed stormwater management facilities with supporting drainage calculations. (Note: All minor development BMPs and/or drainage discharge points must be located a minimum of 10 feet away from all adjoining property lines, including surrounding stone areas).
 - (h) Construction details for all proposed site features and stormwater management facilities.
 - (i) Any other information which shall be deemed reasonably necessary by the reviewing engineer.
- D. The stormwater management features shall be protected from future development by conservation easement, deed restriction, or other acceptable legal measures.
- E. Maintenance of the stormwater management feature shall be the responsibility of the property owner, and said responsibility shall transfer over to any future property owner.
- F. Exemptions. Any development that creates in an increase of less than 250 square feet of impervious coverage does not meet the definition of a minor development and shall be exempt from the provisions of this section. (Note: Changes to impervious coverage(s) resulting from phased developments shall be considered as a cumulative calculation. Should an application be deemed exempt, but a future phase/development project result in a cumulative increase of 250 square feet or more, the provisions of this chapter shall be met for the full cumulative impervious coverage increase from all developments since February 16, 2021.) **[Added 6-11-2024 by Ord. No. O-24-22]**
- G. Variances. A variance from strict compliance with the requirements of this section may be granted for those projects where an applicant has demonstrated the inability or impracticability of strict compliance with the stormwater management requirements of this section.

§ 295-11.1. Redirection of stormwater runoff. [Added 6-13-2022 by Ord. No. O-22-14]

No person or entity shall artificially redirect or augment the flow of stormwater runoff onto adjacent property.

- A. For purposes of this section, "adjacent" means immediately contiguous to or abutting a neighboring property and shall include properties directly across a public right-of-way from a subject property.
- B. "Artificially redirect" shall mean to alter the course of a stormwater flow, by any means including but

not limited to grading, structures, pipes, culverts, or conduits.

C. This section shall apply to all properties in the Township of Montclair.

§ 295-11.2. Application review and inspection fees. [Added 3-11-2025 by Ord. No. O-25-02]

- A. Any applicant submitting a stormwater control plan to the Township for review shall provide an initial escrow fee in the amount of \$1,500. If a project is approved, an additional inspection escrow deposit may be required in an amount to be determined by the Township Engineer.
- (1) The escrow account shall be held in a Township of Montclair account designated for this purpose.
 - (2) The Township Building Official shall be the authorized signatory on the escrow account.
- B. Use of escrow funds. The Township shall be authorized to draw funds from the escrow account to cover the costs incurred by the Township in processing the stormwater control plan. Costs that may be charged to the escrow account include, but are not limited to:
- (1) Engineering review fees.
 - (2) Inspection fees.
 - (3) Laboratory testing fees.
 - (4) Other related costs.
- C. Fees for applications submitted to the Planning Board or Zoning Board of Adjustment shall be subject to the fee schedule provided in § 202-28.
- D. Refund of escrow funds. Upon final approval of the stormwater control plan and completion of all required inspection, any remaining funds in the escrow account shall be refunded to the applicant. If the application is denied or withdrawn, the Township shall refund the remaining funds to the applicant, less any fees incurred by the Township.
- E. Any applicant who fails to establish an escrow account as required by this section shall be denied approval. The Township may take any necessary legal action to enforce the provisions of this section.

§ 295-12. Violations and penalties.

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 this chapter 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.

§ 295-13. Severability.

Each section, subsection, sentence, clause and phrase of this chapter is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this chapter to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this chapter.

§ 295-14. When effective.

This chapter shall be in full force and effect from and after its adoption and any publication as required by law.

MONTCLAIR CODE

Chapter 297

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Board of Commissioners (Arts. I through IV), now Township Council (all subsequent articles), as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Curbs, Sidewalks and Driveways

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 192 of the 1979 Code; amended in its entirety 5-23-2000 by Ord. No. 00-19]

§ 297-1. Construction permit required; terminology.

No curb, sidewalk or driveway apron shall be constructed or laid in any street in the Township unless a written permit therefor has been obtained by the owner of the property or by a contractor from the Township Engineer. "Construction" or "constructed," as used in this article, shall include new construction and substantial repairs in the nature of replacement of one or more sections of a curb, sidewalk or driveway apron.

§ 297-2. Application for permit.

- A. No permit shall be issued for the construction of any curb, sidewalk or driveway apron unless a written application is made specifying the location, material, length, width, depth and square feet of the proposed construction.
- B. The contractor performing the work must apply for the permit. The property owner can only be issued a permit if the property owner himself or herself is performing the work. See § 297-3 for bonding requirements.

§ 297-3. Bond requirement.

Other than the owner of the property doing the construction work himself or herself, each applicant for a construction permit under this article shall file with the Township Engineer a bond or letter of credit approved by the Township Attorney, in the amount of \$2,000. The condition of the obligation of such bond shall be that if the applicant shall perform all construction work in conformance with this article and shall protect and save harmless the Township from all loss, damage and expense arising out of said work, the obligation shall be void; otherwise, it shall remain in full force and effect.

§ 297-4. Permit fee.

No permit shall be issued for the construction of any curb, sidewalk or driveway apron unless a permit fee is first paid to the Township Engineer. The permit fees shall be as follows:

- A. For sidewalks: \$0.15 per square foot; \$20 minimum.
- B. For new or repair of driveway aprons: \$20.
- C. For curbs: \$0.30 per linear foot; \$20 minimum.

§ 297-5. Private streets and streets in new developments.

Construction of all curbs, sidewalks and driveway aprons on any private street or on streets of any new development shall be subject to the same regulations and must comply in all respects with the regulations governing streets the title of which is vested in the Township. Failure to comply with the requirements of this section shall be sufficient cause for the Township to reject any proffered dedication of such streets.¹⁶⁰

¹⁶⁰Editor's Note: See Ch. 301, Subdivision of Land, § 301-21, of the Code of the Township of Montclair for the placement of utilities in new developments.

§ 297-6. Supervision of work by Township Engineer.

All construction work done pursuant to the provisions of this article shall be done under the supervision of the Township Engineer.

§ 297-7. Obtaining lines and grades.

All curbs, sidewalk and driveway aprons shall be laid in accordance with the lines and grades approved by the Township Engineer.

§ 297-8. Approval of lines and grades on private streets.

Lines and grades on private streets shall be approved by the Township Engineer, as provided in § 297-7.

§ 297-9. Costs for inspections on private streets.

Inspection of the work done on private streets shall be furnished by the Township Engineer only upon the payment to the Township of the cost of such inspection.

§ 297-10. Location and width of driveway aprons.

- A. The location and width of driveway aprons shall be subject to the approval of the Township Engineer.
- B. The Uniform Construction Code Official shall determine if a new driveway can be constructed. Approval from the Uniform Construction Code Official is necessary for all work done on the homeowner's property, which includes a driveway.

§ 297-11. Shade trees.

In any situation where shade trees along the line of the work will be affected, it shall be necessary to obtain the consent in writing of the Department of Parks, Recreation and Cultural Affairs to any necessary removal, cutting of tree roots or cutting of such trees. The Department of Parks, Recreation and Cultural Affairs must be notified first before any construction work is done if there is a shade tree that will be affected.

§ 297-12. Specifications for materials and construction.

Every person doing any work under the provisions of this article shall conform strictly to the following specifications:

- A. Design.
 - (1) Concrete curbs. The cross-sectional shape of the curb shall be a trapezoid. The top base shall be seven inches; the bottom base shall be 11 inches, and the height shall be 20 inches. The one side of the curb shall be perpendicular to both bases. The battered face shall face the pavement, and the obtuse angle shall be rounded with a radius of one inch.
 - (2) Bluestone, Belgian block or granite curbs. Bluestone, Belgian block or granite curbs shall set in one-to-two-to-four concrete as shown on the Montclair Standard Details in the Office of the Township Engineer.
 - (3) Sidewalks. Sidewalks shall be a width of not less than four feet and a thickness of not less than five inches and placed on four inches of acceptable crushed stone. The grade of the ground

adjoining the sidewalk shall on one side be maintained sufficiently low to prevent the collection of water on the sidewalk. See Subsection A(4) below.

- (4) Concrete driveway aprons. Concrete driveway aprons shall have a thickness of not less than seven inches placed on four inches of acceptable crushed stone and shall be bounded by expansion joints. The curb at the driveway apron shall be sunk to the depth of the adjoining curb as shown on the Montclair Standard Details in the Office of the Township Engineer. The sidewalk crossing any driveway shall be seven inches thick.
 - (5) Bituminous concrete driveway aprons. Bituminous concrete driveways shall be five inches in thickness, shall consist of two courses and shall conform to the New Jersey Department of Transportation Standard Specifications for 1989, as amended and supplemented. The base course shall be constructed of one-and-one-half-inch broken stone properly bound with oil asphalt (O.A.-4) at the rate of not less than 1.75 gallons per square yard and shall be not less than three inches in thickness when compacted. The top course shall be bituminous concrete and shall be not less than two inches in thickness when compressed. That portion of the driveway crossing the four-foot sidewalk area shall be concrete and shall be not less than seven inches in thickness, as shown on the Montclair Standard Details on file in the Office of the Township Engineer.
- B. Materials. All materials shall conform to the New Jersey Department of Transportation Standard Specifications for 1989, as amended and supplemented.
 - C. Excavation. The trench to receive the concrete shall be excavated in such a manner as to give ample room for the setting of the forms. For bituminous concrete driveway aprons, the sides of the excavation may be used as forms. The bottom of the excavation shall be leveled its full width and must have a firm and unyielding bed.
 - D. Forms and expansion joints. Metal forms shall be used or forms equally suitable. In the case of curb construction, a one-half-inch premolded expansion joint shall be placed at intervals not to exceed 20 feet. In the case of sidewalk construction, a one-fourth-inch premolded expansion joint shall be placed at intervals not to exceed eight feet. Wherever the curb or walk being constructed abuts existing structures, a one-half-inch premolded expansion joint shall be placed between the old and new construction. The above applies only to concrete or reinforced concrete construction. No forms and no expansion joints are required in the construction of bituminous concrete driveway aprons.
 - E. Mixing and deposition. Air-entrained concrete shall be proportioned of one part portland cement, two parts clean, sharp concrete sand and three parts clean, three-fourths-inch broken stone. Not to exceed 5 1/2 gallons of water shall be added to the mixture for each ninety-four pound sack of cement. If the sand is wet from rain or from other causes, not to exceed five gallons of water shall be so added, and the sand volume shall be increased to 2.4 cubic feet. The concrete shall be mixed for at least two minutes after all materials are in the mixer. It shall be spaded and tamped or vibrated into place in such a manner that the forms are completely filled and free from voids.
 - F. Curing. All concrete surfaces shall be completely coated and sealed immediately after deposition. The work shall be properly protected from traffic for four days.
 - G. Cold weather requirements. Concrete work is not permitted during the period from November 15 to March 21 without the written permission of the Township Engineer, and then only under precautions to protect the work from freezing weather.

§ 297-12.1. Notice to repair sidewalks and curbs; costs. [Amended 3-11-2025 by Ord. No. O-25-05]

- A. In accordance with the notice procedure provided in this section, any sidewalk or curb on any public street which is out of line or grade or is broken or out of repair or is otherwise in need of reconstruction or repair shall be relaid to the approved line and grade, or the broken portions thereof shall be repaired or constructed by the owner of the land which abuts any such sidewalk or curb where improvement, reconstruction or repair is needed. Construction permit required (see § 297-12.1 et seq.).
- B. Whenever the Township through its Division of Code Enforcement, Housing and Property Maintenance determines that an owner suffers or permits any such sidewalk to fall into such disrepair as to constitute a condition which is dangerous or hazardous to the safety of the public, the Township shall cause a written notice thereof to be served upon such owner, either personally or by certified mail, directing the property owner to do the work within 45 calendar days of the date of such notice, or within such other reasonable period of time depending upon the season of the year after service of the notice. The notice shall specify in sufficient detail the character of the improvement, reconstruction or repair to be made; shall set forth a description of the property affected, sufficiently definite to identify the same; and shall otherwise comply with the requirements of Chapter 65 of Title 40 (N.J.S.A. 40:65-1 et seq.) of the Revised Statutes for such case made and provided. The notice shall give opportunity to such owner to be heard and to offer satisfactory reason why such work should not be done. Service of the notice and proof of service thereof shall be made in accordance with the requirements of Chapter 65 of Title 40 (N.J.S.A. 40:65-1 et seq.) of the Revised Statutes in such case made.
- C. Proper maintenance and repair shall be in accordance with the "specifications for materials and constructions" established in this § 297-12.
- D. If the owner does not comply with the requirements of such written notice, the Township, in compliance with the provisions of N.J.S.A. 40:65-14, shall cause the work to be done.
- E. The cost of such work shall be collected by the Township as provided in N.J.S.A. 40:65-14.

§ 297-12.2. Bluestone sidewalks. [Added 11-10-2008 by Ord. No. 08-33]

- A. No property owner or other person shall remove, reconstruct, damage or destroy any bluestone sidewalk located on any public street or public right-of-way in the Township of Montclair without the express written permission of the Township Engineer, which shall not be unreasonably withheld. If permission is granted to remove a bluestone sidewalk, the property owner shall be responsible to transfer and deliver the bluestone sidewalk to the Township at a location designated by the Engineer.
- B. This section shall not prohibit the removal of a bluestone sidewalk, provided the sidewalk is replaced with a similar bluestone sidewalk.
- C. This section shall be effective until January 31, 2009, at which time it shall automatically expire unless an ordinance is adopted extending the section beyond January 31, 2009.

§ 297-13. Rules and regulations.

The Township Engineer shall be empowered to make such rules and regulations as he/she deems necessary in his or her reasonable judgment to carry out the provisions of this article.

§ 297-14. Violations and penalties. [Amended 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

ARTICLE II

Excavations in Streets**[Adopted 8-12-2014 by Ord. No. O-14-030¹⁶¹]****§ 297-15. Definitions.**

The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

APPLICANT — Any person who makes application for a permit.

EMERGENCY — Any unforeseen circumstance which calls for immediate action.

ENGINEER — The Township Engineer of the Township of Montclair or her authorized deputy, representative or inspector, or a licensed engineer engaged by the Township to perform the engineering services required by this article.

EXCAVATION — Any trench opening, which shall be no greater than five feet in width and 15 feet in length. Any opening larger in size than that described hereinabove shall be considered by the Engineer when determining fees.

PERMITTEE — Any person who has been issued a permit and has agreed to fulfill all the terms of this article.

PERSON — Includes any natural person, partnership, firm, association, utility or corporation.

STREET — The improved portion of the right-of-way of any public street, public highway, public way, public road or public easement within the Township, including that portion of the right-of-way improved with curbs and sidewalks.

TOWNSHIP — The Township of Montclair, Essex County, New Jersey.

§ 297-16. Permit required.

- A. It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface of any street, except for the erection of public utility poles, as provided for by the Public Utility Law, without first securing a permit from the Township of Montclair for each separate undertaking.
- B. In no event shall any street opening occur within two years of any street having been surfaced, except in the event of an emergency as provided for in Subsection C below.
- C. Any person maintaining pipes, lines or underground conduits in or under the surface of any street by virtue of any law, ordinance or franchise may proceed with an excavation or opening without a permit when emergency circumstances demand the work be done immediately and where the permit could not reasonably and practically have been obtained beforehand. Such person, however, shall thereafter apply for a permit on the first regular business day on which the office of the Township Engineer is open for business, and said permit shall be retroactive to the date when the work was begun.

§ 297-17. Limit to authorized work.

No person to whom a permit has been granted under the provisions of this article shall perform any of the

161. Editor's Note: This ordinance also repealed former Art. II, Excavations in Streets, adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 192 of the 1979 Code, as amended.

work authorized by such permit in any amount or quantity greater than that specified in the permit, except that, upon approval by the Engineer and payment of the additional fee, additional work may be done under the provisions of the permit in an amount not greater than 10% of the amount specified in the permit, as determined by the Engineer. Any deposit and bond posted in connection with the original permit shall be deemed to cover such additional work as may be approved pursuant to this section.

§ 297-18. Commencement of work; permit fees; exception.

- A. Work for which a permit has been issued pursuant to this article shall commence within 30 days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated.
- B. In the event that no street work has been commenced, the permittee may, within 60 days of the issuance of the permit, request, in writing, the refund of the permit fee paid, except that the application fee is nonrefundable. Permits thus terminated may be renewed upon the payment of an additional application fee and the required permit and inspection fees as determined by the Township Engineer and defined within § 297-30.7.

§ 297-19. No transferability of permit.

Permits issued under this article are not transferable from one person to another, and the work shall be carried out only at the location specifically designated in the permit.

§ 297-20. Expiration of permit; extension.

Every permit issued hereunder shall expire at the end of the period of time specified in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present, in writing, to the Engineer a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the Engineer, such an extension is warranted, the permittee may be granted such additional time as is reasonably necessary to complete the work.

§ 297-21. Right to use of street.

Every permit issued hereunder shall be granted subject to the right of the Township or any other person entitled thereto to use the street for any purpose for which such street may lawfully be used, with the exception of the specific area needed to perform the work. The permittee shall take all reasonable actions to assure that any restriction on the use of the street shall involve as small an area as possible and shall be of as short duration as possible.

§ 297-22. Revocation of permit.

- A. Every permit issued under this article may be revoked by the Engineer after notice for:
 - (1) Violation of any condition of the permit.
 - (2) Violation of any provision of this article or any other applicable ordinance or law relating to the work.
 - (3) The existence of any condition or the doing of any work constituting or creating a nuisance or endangering the lives or property of others.
- B. Written notice of such violation shall be served upon the person to whom the permit was granted or his agent or employee engaged in the work. Such notice shall also contain a brief statement of the

reasons for revoking such permit. Notice may be given either by personal delivery thereof to the person to be notified or by United States mail, addressed to such person to be notified.

- C. Upon receiving notice of revocation of a permit, the contractor is immediately to suspend all work that had been authorized by the permit, and promptly backfill and repair any opening. Failure to properly backfill and repair the opening will result in the Township utilizing either the deposit or the performance bond to effect proper repairs. The contractor will be penalized as stated in § 297-30.8.

§ 297-23. Duties and responsibilities of applicant; review of application.

- A. It shall be the duty and responsibility of any person applying for a permit to:
- (1) Pay an application fee as provided in § 297-30.7. This fee is nonrefundable.
 - (2) Present a properly completed application form to the Township Engineer's office.
- B. The Engineer shall have a minimum of three working days to review the application. The Engineer, after reviewing said application form, will approve or deny the street opening permit.
- (1) When the Engineer denies the application, she will so advise the applicant, in writing, along with an explanation as to the reason or reasons the permit is denied.
 - (2) When the Engineer approves an application, she will advise the applicant as to the requisite fees, as provided in § 297-30.7. She shall further advise the applicant of the applicant's responsibility to provide liability insurance and a surety bond necessary to cover the work proposed in said application and as more particularly set forth in § 297-29 below.
 - (3) Once the applicant meets all requirements stated by the Engineer, the Engineer will then grant the permit.
- C. The application for a permit shall:
- (1) Contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Township and the laws of the State of New Jersey in relation thereto.
 - (2) Furnish, in duplicate, plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation and of the proposed excavated surfaces, the location of the excavation work, and such other information as may be prescribed by the Engineer.
 - (3) Agree to indemnify and hold harmless the Township, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of said work to be done in said application. The acceptance of any permit under this article shall constitute such agreement by the applicant, whether the same is expressed or not.

§ 297-24. Duties and responsibilities of permittee.

- A. It should be the duty and responsibility of any person obtaining a permit to pay a permit fee, nonrefundable (except as provided in § 297-18), for the issuance of an excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The minimum excavation permit fee shall be in the amount varying with the type, amount and age of the surface to be opened, dug or excavated under the permit issued, as provided in § 297-30.7.
- B. The applicant shall furnish a certificate of insurance as required by § 297-29 below.

- C. The applicant shall deposit with the Township of Montclair a surety bond as required in § 297-29 below.
- D. The applicant shall submit, when required by the Engineer, a list of owners and tenants of all property abutting the area where the work authorized by the permit is to be performed.
- E. It should be the duty and responsibility of any person obtaining a permit to keep the original copy of the permit at all times while such work is in progress and show such permit upon demand to any authorized representative of the Township.

§ 297-25. General regulations.

- A. No openings or excavations in any street shall extend beyond the center line of the street until the surface of the street is restored to a condition safe and convenient for travel.
- B. The work of excavation shall be so conducted as not to interfere with any utility lines or connections or other underground facilities, unless permission of the proper authorities in connection with such facilities shall have been obtained.
- C. The permittee shall expose all utilities facilities, including sewers, storm drains, gas mains, water mains, telephone and electrical conduits, and other utility obstructions, sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation if necessary.
- D. Where a pipe drain, pipe culvert or other structure or facility is encountered, it shall be replaced, restored, straightened or protected by the permittee.
- E. If, in the process of his work, the permittee damages any public or private utility property, the utility may make the necessary repairs and file a claim against the permittee with the Township for the cost thereof. If the claim is not paid promptly by the permittee, the amount may be withheld by the Engineer from the deposit or charged against the permittee's performance bond.
- F. Any monument of granite, concrete, iron, steel, brass or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey bench mark within the Township shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission, in writing, from the Engineer to do so. Permission shall be granted only upon the condition that the permittee shall pay all expenses incidental to its proper replacement.
- G. If any work performed under the permit interferes with the established drainage system of any street, provisions shall be made by the permittee to provide proper drainage to the satisfaction of the Engineer.
- H. When any earth, sand, gravel, rock, stone or other excavated material is caused to be deposited upon or to roll, flow or wash upon any street so as to create a nuisance or endanger life or property, the person responsible therefor shall cause the same to be removed immediately from the street upon notification to do so by the Engineer. In the event that it is not removed within eight hours after notification, the Engineer shall cause such removal, and the cost of such removal shall be paid by the permittee or deducted from his deposit.
- I. To protect the public, every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Montclair Police Department. All safety requirements and precautionary measures shall be based upon and in conformance with law and specifically, where applicable, the Manual on Uniform Traffic Control Devices, including all

amendments (latest edition). Whenever any person fails to provide or maintain the safety devices required by the Police Department, such devices shall be installed and maintained by the Township. The amount of the cost incurred shall be paid by the permittee or deducted from his deposit. No unauthorized person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this article.

- J. While work is in progress and while workmen are on the site, every permittee shall maintain safe crossing for vehicle traffic at all street intersections and safe crossings for pedestrians at intervals of not more than 300 feet. While work is in progress and workmen are not on the site, all excavations, whether at intersections or elsewhere, shall be covered by steel plates. All plates must lie firmly secured and, when necessary and practical, embedded in bituminous material, so as to withstand the normal flow of traffic on the street. When the size and character of the excavation make it impractical to use steel plates, the permittee shall so advise the Engineer at the time when he applies for his permit and shall not proceed with the work until he obtains the Engineer's consent not to use steel plates. **[Amended 2-16-2016 by Ord. No. O-16-004]**
- K. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.
- L. All materials excavated shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. **[Amended 2-16-2016 by Ord. No. O-16-004]**
- M. In the case of any leak, explosion or other accident in any subsurface pipe, line or other facility, it shall be lawful for the person owning or responsible for such facility to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this article are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such facility, the Engineer, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to do the same on the basis of cost plus 15% to such person.
- N. In granting any permit under this article, the Engineer may attach such other conditions thereto as may be reasonably necessary to prevent danger to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to:
- (1) Limitations on the period of the year in which the work may be performed.
 - (2) Restrictions as to the size and type of equipment.
 - (3) Designation of routes upon which material may be transported.
 - (4) The place and manner of disposal of excavated materials.
 - (5) Requirements as to the laying of dust, the cleaning of streets, the prevention of noises and other results offensive or injurious to the neighborhood, the general public or any portion thereof.
 - (6) Regulations as to the use of streets in the course of the work.

§ 297-26. Pavement cuts; restoration.

- A. All pavement cuts, openings and excavations shall be properly made and backfilled according to Township specifications.
- B. The Engineer must be notified by the permittee not more than 48 hours, nor less than 24 hours, prior to the beginning of work or the date and approximate time at which work will be begun.
- C. No work shall be performed by the permittee unless or until the Engineer shall be present or permission has been given by the Engineer to proceed in his absence.
- D. Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four feet or over in depth, the pavement in the base shall be removed at least one foot beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a one-foot shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.
- E. No tunneling shall be allowed without the express approval of the Engineer and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Township Engineer and shall be done only in a method approved by him.
- F. The work of restoration to be carried out by the permittee, including both paving surface and paving base, shall be performed as follows:
 - (1) Every person who opens or excavates any street in the Township shall thoroughly and completely refill the opening or excavation, the surface shall be restored to the same condition as it was before the opening, and such restoration shall be in accordance with the requirements of the Township and specifications of the Department of Transportation of the State of New Jersey, which specifications are hereby adopted as specifications of the Township for restoration of surfaces of public streets in the Township. As restored, the surface shall conform to the part of the street immediately adjoining the opening. If, after the restoration of the surface as herein provided, defects shall appear therein, resulting from defective workmanship by the permittee, he shall reimburse the Township for the cost of all necessary repairs to the permanent paving plus 15%. **[Amended 2-16-2016 by Ord. No. O-16-004]**
 - (2) Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compaction shall be done by mechanical tampers or by rolling in layers. Backfill material to be used shall only be densely graded aggregate (DOA) conforming to New Jersey Department of Transportation specifications. The use of excavated material or any other material to backfill the trench is allowed only when specifically permitted by the Township Engineer, in writing.
 - (3) Backfilling up to the first 18 inches above the top of the utility pipes or similar installations shall be done with thin layers. Each layer is to be tamped by manual or mechanical means. Layers that are hand-tamped shall not exceed six inches in thickness. Layers that are power-tamped shall not exceed six inches in thickness. The same requirements shall apply to the remainder of the backfilling if tamping is the method used for backfilling. Backfilling of all pipes of over 24 inches in diameter shall be carried up to the spring line of the pipe in three-inch layers, with each layer moistened and thoroughly tamped with suitable mechanical equipment. The backfill around all pipes 24 inches or less in diameter shall be tamped as specified above to a depth of

18 inches above the tops of the pipe before any additional backfilling is placed thereon.

- (4) Whenever any excavation for the laying of pipe is made through rock, the pipe shall be laid six inches above the rock bottom of the trench, and the space under, around and six inches above the pipe shall be backfilled with clean river sand, noncorrosive soil or 1/4 inch minus gravel. Broken pavement, large stones and debris shall not be used in the backfill.
 - (5) Backfilling of the trench shall be in twelve-inch or less lifts (layers) and mechanically tamped at each lift (layer). This compaction shall be completed for the full depth of the trench.
[Amended 2-16-2016 by Ord. No. O-16-004]
 - (6) On improved streets, a temporary paving of bituminous concrete, Mix 1-2, six inches thick, placed in two layers, each thoroughly bound and compacted, shall be installed flush with the surface of the adjoining pavement.
 - (7) Permanent restoration of pavement shall be completed within seven days and shall be in accordance with the Township of Montclair's Pavement Restoration Detail on file in the office of the Township Engineer. Except for restoration of streets and roadways that have been resurfaced or reconstructed within five years prior to the date of the excavation, the restoration of the trench shall be in accordance with the Special Trench Restoration Standard Detail issued by the Township of Montclair Engineering Department and on file in the office of the Township Engineer. This requirement shall apply to all permittees, including, but not limited to, public utilities, contractors, property owners and tenants.
- G. In the event that any work performed by or for a permittee shall be, in the opinion of the Engineer, unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him or in the event that the work for which the permit was granted is not completed within the time fixed by the Engineer, the Township may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof, plus 15%, to the permittee or his surety.
- H. Where trenches are parallel to the street or where a number of cross trenches are laid in close proximity to one another by the permittee or where the equipment used may damage adjacent paved surfaces, it shall be the prerogative of the Engineer to require a negotiated contribution from the permittee for the resurfacing in place of patching of such streets if the total area of the proposed patch or probable damaged area exceeds 15% of the total pavement surfacing between curb faces or between concrete or stone gutter edges in any block. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.
- I. After such excavation or opening is commenced, the work of making and backfilling the same shall be prosecuted with due diligence and so as not to obstruct the street more than is actually necessary. If the work is not so prosecuted or if the work does not, in the judgment of the Engineer, comply with the terms of this article, he shall so notify the person named in the permit and shall require such person, within three days after the service of such notice, to proceed with the diligent prosecution of such work or property to complete the same, as the case may be. If such notice is not complied with, the Township shall do such work as may be necessary to backfill such excavations and to restore the street or part thereof excavated to the same condition as before such excavation was made. All expenses incurred by the Township shall be recovered from the permittee's deposit or surety, plus an administrative charge of 15%. No further permit shall be granted any person unless and until any opening or excavation already made by him has met all requirements of this article. The Engineer shall be the sole judge of proper performance, and his opinion shall be final.

- J. The Engineer or his authorized agents shall make daily inspections of all work authorized by permits issued pursuant to this article. The Engineer is empowered to employ an inspector if the Engineer is of the opinion that the work to be performed pursuant to a permit authorized by this article is such that an inspector is necessary to ensure compliance with the various provisions of this article.
- K. Upon completion of all work accomplished under the provisions of the permit, the permittee shall notify the Engineer, in writing, on a form prescribed by him. A certificate of final inspection shall be issued by the Engineer to the permittee no sooner than two years after the permanent restoration of the opening or excavation has been made, provided that the work authorized by the permit has been performed according to Township specifications. Prior to the issuance of a certificate, the Engineer shall make a final inspection of the restoration to determine whether Township specifications have been adhered to.
- L. If any settlement in a restored area occurs within a period of two years from date of completion of the permanent restoration, it shall in general be as conclusive evidence of defective backfilling. Any expense which may be incurred by the Township in correcting such settlement shall be paid by the permittee or recovered from his bond, plus 15%.
- M. Unless part of the work is being performed by the Township, no opening or excavation made by a permittee shall be considered in the charge or care of the Township or of any officer or person employed by the Township, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening or excavation, except in the exercise of police power, where and when it is necessary to protect life and property.
- N. If, in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest requires that the excavation work be performed as emergency work, the Engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible.

§ 297-27. Yearly bond may be posted; schedule of charges.

- A. Whenever any public utility or municipal authority maintaining underground facilities shall contemplate more than one street opening or excavation per calendar year, it may post a surety bond for the calendar year or part thereof to cover the estimated fees and cost of any and all work. Said bond must be written by a reputable surety company licensed to do business in the State of New Jersey, and the bond shall be conditioned upon the payment of all charges estimated to be required by this article during the term of the bond. Such bond must be approved by the Township Attorney as to form.
- B. Deposit schedule. The Engineer is authorized to establish a schedule of charges for inspections, labor, materials and such other expenses and requirements of this article. The schedule shall be open to public inspection in the office of the Engineer upon demand.

§ 297-28. Decision of Engineer final.

The decision of the Engineer as to the cost of any work done or repairs made by him or under his direction, pursuant to the provisions of this article, shall be final and conclusive.

§ 297-29. Certificate of insurance and surety bond required.

- A. A certificate of insurance shall be required of the applicant prior to the commencement of work as

permitted by this article. Said certificate shall indicate that the applicant is insured against claims for damages for personal injury as well as against claims for property damage which may arise out of or from the performance of the work, whether such performance is done by himself, his subcontractor or anyone directly or indirectly employed by him. Such insurance shall include protection against liability arising from completed operations. Such insurance shall provide complete third-party coverage for the Township of Montclair and shall at all times be in an amount not less than \$1,000,000 for each person, bodily injury; and \$1,000,000 for each accident, bodily injury; and for property damages, in an amount not less than \$1,000,000. Failure of the applicant to file such certificate shall be grounds for denying a permit; provided, however, that Township departments, franchised public utilities and other governmental agencies may be relieved of the obligation of submitting such a certificate if they do the work contemplated under the permit with their own personnel or with a contractor insured as required. However, such waiver shall not release any such organization from any and all liability under any of the obligations provided herein.

- B. Each applicant, upon the receipt of a permit, shall provide the Township with a surety bond to guarantee the faithful performance of the work authorized by said permit and the proper maintenance of said excavation for a period of not less than two years after the closure and completion of said work. The amount of the bond shall be determined by the Engineer. However, in no event shall the bond furnished be in an amount less than \$1,000. If the applicant contemplates requesting more than one permit per year as said permits may be required by this article, the Engineer may request the applicant to furnish a single bond as required herein in such amount as the Engineer may deem necessary. Said bond must be written by a reputable surety company licensed to do business in the State of New Jersey and must be in a form as approved by the Township Attorney of the Township of Montclair. The bond shall be noncancelable.

§ 297-30. Notice of default in performance and completion of work.

- A. Whenever the Engineer shall find that a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given first to the principal and if default has not been corrected to the surety of the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the Engineer to be reasonably necessary for the completion of the work.
- B. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, pay over to the Engineer the estimated cost of doing the work as set forth in the notice. Upon the receipt of such moneys, the Engineer shall proceed by such mode as he deems convenient to cause the required work to be performed and completed, but no liability shall be incurred therein other than for the expenditure of said sum in hand.
- C. In the event of any default in the performance of any term or condition of the permit for the work, the surety or any person employed or engaged on his behalf shall have the right to go upon the premises to complete the required work or make it safe.
- D. No person shall interfere with or obstruct the ingress or egress to or from any such premises by any authorized representative or agent of any surety or of the Township engaged in completing the work required to be performed under the permit or in complying with the terms or conditions thereof.

§ 297-30.1. Notification of adjoining property owners and tenants.

If, in the opinion of the Engineer, the work to be undertaken by the permittee is such that it will affect the use of properties abutting or adjoining the project, he shall require the permittee to notify the owners or

tenants of such properties and to provide to the Engineer a certification that said permittee has notified the abutting and adjoining property owners and/or tenants, together with a list of those persons notified.

§ 297-30.2. Notification of Police and Fire Departments.

The permittee shall notify, in writing, the Township Police and Fire Departments of his intention to excavate a street within the Township. Such notification shall state the nature of the work to be done and the location of such project. He shall also notify the Police and Fire Public Safety Departments when any openings or excavations have been closed, permitting traffic to flow thereon. The permittee shall, in all cases, be responsible for and required to have traffic directors to maintain traffic with regard to safety and flow.

§ 297-30.3. Enforcement.

The Township Engineer shall be responsible for enforcing all provisions of this article.

§ 297-30.4. Liability of Township.

This article shall not be construed as imposing upon the Township or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the Township or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit or the approval of any excavation.

§ 297-30.5. Notice of improvement.

When the Township shall improve or pave any street, the Engineer shall give notice to all persons owning property abutting on the street about to be paved or improved and to all public utility companies operating in the Township; and all such persons and utility companies shall do all work which would necessitate excavation of the street within 30 days from the giving of such notice. The time may be extended if permission has been requested, in writing, and has been approved by the Engineer.

§ 297-30.6. Contracts proposed by Township; county and state roads.

Street opening permits shall not be required for any contracts proposed by the Township which require the opening of Township streets. Contract proposals requiring the opening of county or state roads will still require the obtaining of permits from those agencies as may currently be in force. All guaranties are provided for within plans and/or specifications so provided by the Township.

§ 297-30.7. Fees.

A. Excavations.

- (1) Road opening permits, application fee: pay an application fee of \$75 upon receiving an application form from the Township Engineer. This fee is nonrefundable.
- (2) Road opening permits, permit fees: **[Amended 10-7-2014 by Ord. No. O-14-033; 2-16-2016 by Ord. No. O-16-004]**
 - (a) On streets constructed, reconstructed or resurfaced not more than five years prior to the issuance of the excavation permit, the following fees will be charged in addition to any application fee related to the proposed opening:

- [1] To public utility companies: \$500.
- [2] To all other permittees: \$300.
- (b) On streets constructed, reconstructed or resurfaced more than one year but fewer than five years prior to the issuance of the excavation permit, the following fees will be charged in addition to any application fee related to the proposed opening:
 - [1] To public utility companies: \$400.
 - [2] To all other permittees: \$200.
- (c) In addition to the fee set forth above, any person subject to § 297-16 shall also pay the cost of inspections conducted on behalf of the Township by third-party professionals. The Township shall require the estimated cost of such inspection(s) to be deposited in escrow at the time of issuance of a permit.

§ 297-30.8. Violations and penalties.

In case any person shall violate any provisions of this article, any permit issued by the Township to such person under this article shall be revoked, and such person, upon conviction before the courts, shall be sentenced to pay a fine of not more than \$2,000 per each day of violation and costs of court. Additionally, such person shall bear all costs associated with remediation work on any constructed, reconstructed, or resurfaced road.

ARTICLE III

Snow and Ice Removal

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. III of Ch. 192 of the 1979 Code; amended in its entirety 2-16-2016 by Ord. No. O-16-003]

§ 297-31. Duty of owner or occupant of premises.

- A. Every owner, lessee, tenant, occupant, or other person having charge of any building, lot of ground or premises in the Township abutting or bordering upon any public street in the Township shall remove or cause to be removed all snow, slush and/or ice from the abutting sidewalks of any such street within 12 hours of daylight after the same shall fall or be formed thereon or, in the case of ice which may be so frozen to the sidewalks as to make removal impracticable, shall cause the same to be thoroughly covered with sand, rock salt or similar material within the same period.
- B. For the purposes of this section, "sidewalk" shall also include that portion of the walkway extending to the roadway pavement that by means of a curb, ramp or incline provides access to crosswalks and/or intersections.

§ 297-32. Requirements for removal.

- A. Requirements for snow. Removal of any slush and/or loose, granular, or packed snow should be conducted along the full paved width, or a minimum of 48 inches wide, of such sidewalks and in a manner that ensures the orderly flow and safety of pedestrian traffic upon such sidewalks.
- B. Requirements for ice. Removal of any ice should be conducted along the full paved width, or a minimum of 48 inches wide, of such sidewalks and in a manner that ensures the orderly flow and safety of pedestrian traffic upon such sidewalks. In the event of ice that may be so frozen as to make removal impracticable any owner, lessee, tenant, occupant or other person shall be deemed to be in compliance with this subsection if such ice is made level and completely covered with sand, sawdust, rock salt, or other appropriate traction-producing material to prevent slipping and shall, as soon thereafter as the weather shall permit, thoroughly clean such sidewalks.
- C. Any property whose sidewalk leads to a crosswalk shall remove snow, slush and/or ice so as to give clear path of access to the crosswalk.

§ 297-33. Depositing of snow, slush and/or ice on streets prohibited.

No owner, lessee, tenant, occupant or other person, having charge of any building or lot of ground in the Township abutting on any street, shall throw, place or deposit any snow, slush and/or ice into or upon any street, or against a fire hydrant or on the loading or unloading areas of any public transportation systems in the Township, except such as falls upon or is formed upon that portion of the property so abutting said street lying within the sidewalk lines thereof. No snow or ice may be deposited on the land of another owner, tenant, or occupant unless said owner, tenant, or occupant has agreed to accept same. No person shall authorize or permit removal of snow, slush and/or ice and its depositing upon any street, or against a fire hydrant or on the loading or unloading areas of a public transportation system in the Township. It is the intent and purpose of this section to prohibit all persons from throwing, casting, placing or depositing snow and ice which accumulated within the private property belonging to said persons upon the sidewalks or streets of the Township.

§ 297-34. Removal by Township; lien for costs.

In any case in which snow, slush and/or ice shall not be removed from any sidewalk as required in § 297-31, or shall be cast, deposited, thrown or placed upon any sidewalk or street in violation of § 297-33, such snow, slush and/or ice shall be removed by and under the direction of the Township Manager or his designee. The cost thereof shall be certified by the Township Engineer to the governing body, which shall examine such certificate of cost and, if it finds said certificate to be correct, shall cause such cost to be charged against the real estate abutting upon such sidewalks. The amount so charged shall thereupon become a lien and tax upon said real estate and be added to and be a part of the taxes next to be levied and assessed thereon, and enforced and collected, with interest, by the same officers and in the same manner as other taxes. The imposition and collection of any penalty imposed by the provisions of § 297-34 shall not constitute any bar to the right of the Township to collect such assessment of costs as certified for the removal of said snow, slush and/or ice in the manner herein authorized.

§ 297-34.1. Violations and penalties.

- A. Any owner, lessee, tenant, occupant or other person who violates any provision of this article shall, upon conviction thereof, be punished by a fine according to the following schedule:
 - (1) For first offense, \$100.
 - (2) For the second offense and each additional within a six-month period from the date of the previous offense, a fine of not less than \$200 nor more than \$500.
- B. Each day on which a violation of this article 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.

ARTICLE IV

Permits for Encumbrances

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. V of Ch. 192 of the 1979 Code]

§ 297-35. Definitions.

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

MATERIAL — All personal property other than refuse set out for collection by the Department of Community Services. **[Amended 6-15-2004 by Ord. No. 04-34]**

STREET — Any public street, avenue, highway, esplanade, boulevard, parkway or square or any part thereof, including all lands between property lines on each side thereof.

§ 297-36. Inapplicability.

The provisions of this article shall not be construed to apply to any person performing work on any street under contract with the Township.

§ 297-37. Parking of vehicles.¹⁶²

Nothing in this article shall be deemed to refer to or affect the parking of vehicles in any street of the Township.

§ 297-38. Permit required for encumbrances.

Except where permitted by other ordinances or by rules and regulations of the Township, no person shall encumber or obstruct any street or sidewalk in the Township with any material, or cross any sidewalk or curb with any vehicle, without first having secured a permit to do so as hereinafter in this article provided.

§ 297-39. Issuance of permits.

All permits authorized by this article shall be issued by the Building Subcode Official.

§ 297-40. General requirements for permit.

No permit under this article shall be issued until the person applying therefor shall have first filed an application with the Building Subcode Official and shall have complied with the requirements of this article for deposits and fees.

§ 297-41. Contents of application; agreements.

The application for a permit under this article shall set forth:

- A. The name of the applicant.
- B. The address of the applicant for the purpose of receiving notices or other communications from the Township or its officers and agents.
- C. The date to which the applicant desires the permit to run.

162.Editor's Note: See Ch. 327, Vehicles and Traffic.

- D. The character of the material which the applicant desires to store on the streets.
- E. The location at which materials are to be stored or the curb or sidewalk is to be crossed.
- F. An agreement to guard safely the material placed on the street and to light the property at night, as required by this article, and to assume all responsibility for guarding and lighting.
- G. An agreement to abide by the terms of this article and all other ordinances of the Township and the rules and regulations of the Department of Community Services. **[Amended 6-15-2004 by Ord. No. 04-34]**
- H. An agreement to reimburse the Township, its successors, assigns, officers, servants and employees for any damages it or they may be required to pay by reason of such deposit of material on any street or such crossing of any sidewalk.

§ 297-42. Fees for inspections.

- A. Before any permit is issued under this article for the storage of materials, the applicant therefor shall pay, as a fee for inspection, to the Building Subcode Official the sum of \$5 for each and every month or fraction thereof during which said material is to be so stored.
- B. An applicant for a permit for crossing curbs and sidewalks shall pay, as a fee for inspection, the sum of \$1, unless said applicant has obtained a permit for the erection, alteration or repair of a structure on the abutting premises.

§ 297-43. Security deposit; forfeiture or return; excess costs.

- A. Before any permit is issued under this article for crossing curbs and sidewalks, the applicant therefor shall deposit with the Building Subcode Official the sum of \$25. No interest shall be allowed or paid thereon.
- B. The deposit shall not be returned until the crossing of said curbs and sidewalks has ceased and it appears that no damage has been done.
- C. If at any time during the life of the permit or after its expiration an inspection discloses damages to the curb or sidewalk, the Building Subcode Official may give notice to the person holding the permit hereunder to commence the work of repairing or restoring the same within three working days after delivery thereof. If said person refuses or neglects to so do within the specified time and to prosecute the work with diligence, then the Building Subcode Official may have repaired or restored the damaged parts and charge the cost against the deposit. Such cost shall be computed by the Building Subcode Official.
- D. As soon as such cost is ascertained, the Building Subcode Official shall deliver or cause to be delivered a notice at the address of the person holding such permit for the crossing of such curb or sidewalk, stating the amount of such charges. If such charges exceed the amount of the deposit, the holder of the permit shall pay to the Building Subcode Official the excess charges. No other permit under the provisions of this article shall be issued to the party against whom the charges are due until the excess charges are paid. The balance of the deposit, if any, at the expiration of the permit shall be repaid to the person holding such permit.

§ 297-44. Extension or enlargement of permit.

Any permit issued under this article may be extended in duration, and where originally issued only for

storage of material or for crossing curbs and sidewalks, may be made to include both.

§ 297-45. Storage of materials on streets.

Whenever a permit for the storage of materials is issued to any person applying therefor, said materials stored upon the street shall in no case occupy any portion thereof lying more than 10 feet beyond the curbline, nor shall said material at any time be stored upon the sidewalks or along the curbs, which must at all times be kept open and unobstructed.

§ 297-46. Mixing mortar or concrete prohibited.

No mortar, concrete or similar matter shall be mixed or placed upon the surface of any street or sidewalk of the Township.

§ 297-47. Warning lights for street obstructions.

Whenever materials are deposited or placed upon any Township streets under a permit issued pursuant to this article, the person holding said permit shall place red warning lights at suitable points upon or near said obstructions and shall keep the same lighted during the period from 1/2 hour after sunset until 1/2 hour before sunrise.

§ 297-48. Protection of curbs and sidewalks from damage.

No person to whom a permit shall have been issued therefor shall cross with vehicles any curbs or sidewalks without first properly protecting same in a manner approved by the Building Subcode Official. Any person who crosses with a vehicle any curb or sidewalk without protecting the same as herein required shall be liable, upon conviction, to a penalty as provided in this article.

§ 297-49. 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 article 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.

ARTICLE V

Awnings, Canopies and Marquees**[Adopted by the Council of the Township of Montclair 12-20-1983 by Ord. No. 83-50]****§ 297-50. Definitions. [Amended 11-12-1991 by Ord. No. 91-48]**

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

AWNING — A fabric awning or a nonfabric awning, which are defined as follows: **[Amended 2-11-2008 by Ord. No. 08-05]**

- A. **FABRIC AWNING** — A temporary rooflike structure consisting of framing covered with an opaque fabric mounted solely on and projecting from the wall of a building for the purpose of shielding windows or doorways. Backlit fabric shall not be permitted. Such structures may be fixed or retractable with a mechanism for raising and holding the frame against the wall of the building.
- B. **NONFABRIC AWNING** — A temporary rooflike structure consisting of framing mounted solely on and projecting from the wall of a building for the purpose of shielding windows or doorways or as a decorative architectural feature over windows or doorways. Backlit structures shall not be permitted. Such structures may be fixed or retractable with a mechanism for raising and holding the frame against the wall of the building.

CANOPY — A temporary rooflike structure consisting of framing covered with an opaque fabric mounted partly on and projecting from the wall of a building and supported partly by stanchions anchored in the sidewalk for the purpose of weather protection at doorways. Backlit fabric shall not be permitted.

MARQUEE — A rooflike structure mounted entirely or partly on the wall of a theater building for the purpose of weather protection at doorways and the advertisement of theater events.

§ 297-51. General regulations. [Amended 11-12-1991 by Ord. No. 91-48]

Awnings, canopies or marquees associated with principal uses in the N-C, C-1 and C-2 Zones may project into the public right-of-way, provided that such temporary structures comply with the following:

- A. **Retractable awnings.** Retractable awnings within the public right-of-way shall have no part of the frame less than seven feet above the sidewalk and no part of the fabric covering or valance less than six feet nine inches above the sidewalk. Such structures shall extend no less than two feet, six inches and no more than six feet into the public right-of-way. **[Amended 6-29-1993 by Ord. No. 93-26; 11-26-2002 by Ord. No. 02-53]**
- B. **Fixed awnings.** Fixed awnings within the public right-of-way shall comply with the regulations for retractable awnings, except that such fixed structure shall extend no less than two feet, six inches and no more than four feet into the public right-of-way. **[Amended 11-26-2002 by Ord. No. 02-53]**
- C. **Canopies.** Canopies within the public right-of-way shall be permitted only at the principal entrance of a theater, restaurant or other place of assembly having a seating occupancy of at least 50 persons or at the principal entrance of an apartment building having 50 or more dwelling units. Canopies shall have no part of the frame less than eight feet above the sidewalk and no part of the fabric covering or valance less than seven feet above the sidewalk. Such structures shall not project horizontally closer than two feet from the curb.
- D. **Marquees.** Marquees within the public right-of-way shall be permitted only at the principal entrance of a theater or a group of theaters having a total seating occupancy of at least 150 persons. Such

structures shall not project horizontally closer than two feet to the curb nor be less than 10 feet above the sidewalk.

§ 297-52. Removal.

- A. As temporary structures, the placement of awnings or canopies within the public right-of-way shall not confer any rights restricting the full public use of the right-of-way. Upon written notice by the Township Council, any such intrusion in the public right-of-way shall be removed within 30 days of notification, regardless of whether such structure complies with the terms of this article. The Township may require the removal of any awning or canopy which becomes so deteriorated as to be unsightly or for reasons of the public health, safety or convenience.
- B. Except for removal by the Township Council as stated above, any awning or canopy not in compliance with the regulations of this article shall be allowed to be retained for a two-year period from the date of adoption of this provision. Following the two-year period, all nonconforming awnings and canopies (but not marquees) shall be removed by the property owner or commercial tenant.

§ 297-53. 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 article 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.

ARTICLE VI

Merchandise Display**[Adopted by the Council of the Township of Montclair 7-8-1997 by Ord. No. 97-34]****§ 297-54. Definitions.**

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

ADJACENT BUILDING — The building whose principal facade fronts on the sidewalk where the merchandise is proposed to be located.

DISPLAY AREA — An area of the sidewalk extending from the principal facade a distance that is no greater than four feet from the principal facade.

MERCHANDISE — Goods or wares customarily sold by the retail establishment, not including signage.

PRINCIPAL FACADE — That portion of the facade of a building which fronts on a street.

REQUIRED PEDESTRIAN PASSAGEWAY — An area of sidewalk, parallel to the principal facade, at least six feet wide between the adjacent building's display area and the adjacent curb, which area shall be unobstructed by trees and light poles, trash receptacles, parking meter posts, telephone booths and similar structures.

SIDEWALK — The paved surface provided for exclusive use of pedestrians in the public right-of-way and situated between and extending from any building to the curb of any street (excluding therefrom any unpaved area).

§ 297-55. Rules.

- A. Merchandise customarily sold within that retail establishment may be displayed on the sidewalk within the display area, provided that there is a six-foot-wide pedestrian passageway remaining.
- B. At the close of business, the merchant shall cause to have removed from the display area all merchandise and related tables and structures used for display.

§ 297-56. Violations and penalties. [Amended 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

ARTICLE VII

Maintenance Responsibility for Certain Roads

[Adopted 4-10-2001 by Ord. No. 01-15]

§ 297-57. Portions of Watchung Avenue and Bloomfield Avenue. [Amended 6-15-2004 by Ord. No. 04-34]

The Council of the Township of Montclair in the County of Essex hereby authorizes the Department of Community Services of the Township of Montclair to assume maintenance of sidewalk and curb bump-outs and responsibility for snow and debris removal in the parallel parking spaces located between such bump-outs depicted on the streetscape plans for both the Watchung Avenue area and Bloomfield Avenue areas, each county roadways.

§ 297-58. County approval required.

A certified true copy of this article shall be sent to the Essex County Engineer for review and approval by the Essex County Board of Chosen Freeholders, the terms of this article to be effective upon the receipt of such approval by the Township Engineer of Montclair.

ARTICLE VIII

**Additional Regulations Relating to Streets and Sidewalks
[Adopted 11-8-2012 by Ord. No. O-12-61]****§ 297-59. Honorary street designations.**

The following streets or portions of a street as described are designated as stated:

Name of Street	Designation as	Location
Cottage Place [Added 6-18-2013 by Ord. No. O-13-25]	Father F.R. Frank Burla Way	Entire length
Edgewood Terrace	Yogi Berra Way	Entire length
Pine Street [Added 8-10-2021 by Ord. No. O-21-20]	Aquilonia Way	Between Claremont Avenue and Grant Street

ARTICLE IX
Complete Streets Oversight Board
[Adopted 5-6-2025 by Ord. No. O-25-13]

§ 297-60. Creation.

An oversight committee, which shall be known as the "Complete Streets Oversight Board," is hereby created.

§ 297-61. Membership; organization; powers and duties.

A. Membership: The Complete Streets Oversight Board shall consist of nine members:

- (1) Up to five members of municipal staff appointed by the Township Manager, including the Complete Streets Director, who shall serve as Chair;
- (2) A member of the Police Department Traffic Safety Bureau, to be appointed by the Chief of Police;
- (3) Up to three governing body members, appointed by the governing body; and
- (4) Two members of the public who either have experience in transportation planning or are members of organizations that have a vested interest in complete streets, appointed for two-year terms by the full governing body, and drawn initially from volunteer members of the Vision Zero Task Force established by the Township of Montclair by Resolution R-23-129.

B. The Township's governing body may, in its discretion, provide for the employment of professional and/or clerical assistance for the Complete Streets Oversight Board. The operations of the Board shall be appropriated by the Township's governing body and expenses financed through ordinary budgetary means.

C. Organization.

- (1) The Complete Streets Oversight Board shall meet annually to reorganize and determine meeting dates, provided, however, that the Board shall meet at least 10 times per year. The Board shall also establish rules and procedures for both the Board and its members to follow, including public access to its agendas, meetings, meeting minutes, and deliberations.
- (2) The Complete Streets Oversight Board shall keep accurate minutes of its meetings and regularly transmit same to the Township Clerk when approved.
- (3) The Complete Streets Oversight Board shall file an annual report with the Township's governing body covering the activities of the Committee and including recommendations to fulfill the purposes of Article X, Complete Streets Policy, of the Township Code and costs incurred.

D. Powers and duties. The Complete Streets Oversight Board shall have the powers and duties to:

- (1) Review transportation project checklists.
- (2) Identify priority transportation projects through a project prioritization process as described in Article X, § 297-63, Complete Streets Policy, to quantitatively weigh performance measures addressing, but not limited to, safety, multi-modal access, and equity.
- (3) Conduct studies and reviews to develop policies and recommendations to the Township's

governing body to fulfill the purposes of Article X, Complete Streets Policy of the Township Code.

- (4) Investigate and analyze issues affecting pedestrian and bicycle safety.
- (5) Recommend to the Township's governing body initiatives and policies designed to enhance pedestrian and bicycle safety.
- (6) Collaborate with Township boards/committees, residents, volunteers, employees, governmental agencies etc., to share resource information and ideas consistent with the purposes of the Complete Streets Oversight Board.
- (7) Encourage participation in Complete Streets projects and undertake factual investigation to determine the need to create, continue and expand Complete Streets initiatives, which shall include, but not be limited to, walking and bicycling programs to encourage individuals to be more physically active and to connect our community's parks and recreational amenities.
- (8) Participate in training to research and analyze methods, trends, and studies to incorporate the best approaches to Complete Streets for a healthier and safer environment for the residents, visitors, and travelers of the Township.
- (9) Develop strategies to create and expand upon the benefits of Complete Streets and to make the Township more walk and bike friendly.
- (10) Maintain communication with the public; county, state, federal, and local government entities and agencies, as well as private organizations, whose programs and activities may have an impact on, and are compatible with, the Complete Streets initiatives, and can be of assistance to the Complete Streets Oversight Board.
- (11) Review and submit comments regarding the finished Complete Streets checklists that are submitted to the Planning Board and Zoning Board of Adjustment.
- (12) Carry out other such duties as may be assigned from time to time by the Township's governing body and/or Township Manager.
- (13) Encourage and seek participation of the Township's residents in the work and activities of the Complete Oversight Board.

E. Designating a Complete Streets Director.

- (1) The Township Manager shall designate or hire a Complete Streets Director to manage the implementation of this article, which implementation shall include, but not be limited to, policy development, interagency cooperation, regulatory and workflow compliance, and communications with the public on issues of street design and safety, and any other related duties as determined by the Township Manager.
- (2) The Complete Streets Director shall develop and maintain robust reporting mechanisms for safety issues and concerns, and a centralized and responsive clearinghouse for detailed information on the Township's Complete Streets efforts, making all key documents publicly available in electronic format.
- (3) The Complete Streets Director shall report to the Township Manager and be a dedicated full-time employee. In the absence of a full-time Complete Streets Director, the role of Acting Complete Streets Director may be filled by another member of Township staff, or a

representative of an external contracted engineering firm.

ARTICLE X
Complete Streets Policy
[Adopted 5-6-2025 by Ord. No. O-25-13]

§ 297-62. Definitions.

COMPLETE STREETS — Means an integrated transportation network designed to enable safe and convenient travel and access along and across streets for all users of all ages and abilities, including pedestrians, bicyclists, persons with disabilities, motorists, movers of commercial goods, and transit riders.

ENVIRONMENTAL JUSTICE — Means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. Meaningful involvement means that:

- A. People have an opportunity to participate in decisions about activities that may affect their environment and/or health;
- B. The public's contribution can influence the regulatory agency's decision;
- C. Community concerns will be considered in the decision-making process; and
- D. Decision makers will seek out and facilitate the involvement of those potentially affected.

PRIORITY COMMUNITIES — Means categories of underserved and adversely impacted populations. There is a wide range of definitions used to quantify and locate underserved populations developed by agencies and organizations dedicated to social equity by law or mission.

TRAFFIC CALMING — Means the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users. Traffic calming objectives include:

- A. Achieving slow speeds for motor vehicles;
- B. Reducing collision frequency and severity;
- C. Increasing the safety and the perception of safety for non-motorized users of the street(s);
- D. Reducing the need for police enforcement;
- E. Enhancing the street environment (e.g., streetscaping);
- F. Encouraging water infiltration into the ground using green street stormwater infrastructure practices; and
- G. Increasing access for all modes of transportation and reducing cut-through motor vehicle traffic.

TRANSIT AMENITIES — Include seating, shelter and shade, wayfinding signage, trash and recycling cans, lighting, route information, bike infrastructure (lockers, racks, fix-it stations, depots, bikeshare, etc.).

TRANSPORTATION FACILITY — Means a facility consisting of the means and equipment necessary for the movement of people or goods; any road, bridge, tunnel, overpass, ferry, airport, mass transit facility, vehicle parking facility, port facility or similar commercial facility used for the transportation of persons or goods together with any buildings, structures, parking areas, appurtenances, and other property needed to operate such facility; however, a commercial or retail use or enterprise not essential to the transportation

of people or goods shall not be considered a transportation facility.

TRANSPORTATION PROJECT — Means any public and/or private land development, project, program, or practice that affects the transportation network or occurs in the public right-of-way, including any construction, reconstruction, retrofit, signalization operations, restriping, rehabilitation, maintenance (excluding routine maintenance that does not change the roadway geometry or operations, such as mowing, sweeping, and spot repair), operations, alteration, and repair of any public street or roadway within a jurisdiction (including alleys, bridges, frontage roads, and other elements of the transportation system).

§ 297-63. Complete Streets Policy.

A. The Township of Montclair shall develop an integrated and connected multimodal transportation system of complete streets that serve all neighborhoods and populations. Towards this end:

- (1) All transportation projects shall create complete streets that allow safe, environmentally healthy, economically sound, equitable, accessible, and convenient travel along and across streets for users of all ages and abilities and for all modes of transportation, including motorists, bicyclists, public transportation vehicles and their passengers, priority communities, and pedestrians, and that strive to meet the following goals:
 - (a) **Safety:** Eliminate all road fatalities, significantly reduce crash severity and injury, and improve personal safety by prioritizing safety improvements for people walking, bicycling, and using other mobility devices.
 - (b) **Environment:** Improve air and water quality; reduce flooding; mitigate traffic congestion.
 - (c) **Economic:** Stimulate economic prosperity.
 - (d) **Health:** Increase physical activity and social connectivity with the goal of lowering the risk of obesity, reducing chronic disease, and promoting wellness.
 - (e) **Equity:** Implement policies and distribute funding and other resources equitably and responsibly in all Montclair neighborhoods.
 - (f) **Access:** Improve active transportation networks by adding protected bicycling lanes and pedestrian walkways for all users and abilities.
- (2) The Planning Board and Zoning Board of Adjustment, along with their respective planning and engineering professionals, shall incorporate this Complete Streets Policy into their reviews and recommendations of development applications/redevelopment projects;
- (3) All initial planning, designing studies and reviews for projects requiring funding or approval by the Township should:
 - (a) Evaluate the effect of the proposed project on safe travel by all users; and
 - (b) Identify measures to mitigate any adverse impacts on such travel that are identified.
- (4) This Policy shall apply to all public and/or private transportation projects, including those using funds awarded by the federal, state, regional, county, municipality, or any other local agency. This shall include new construction, reconstruction, resurfacing, restoration, repaving, rehabilitation, private development projects, and maintenance of highways, roads, and streets.
- (5) The Montclair Township Council, Director of the Department of Community Services, and

Township Engineer shall work in coordination with each other and adjacent jurisdictions, and any relevant advisory committees/teams, to create complete streets and ensure consistency with the Master Plan and any other existing pedestrian, bicycle, and multimodal plans, stormwater management plans, and pollution prevention plans.

- (6) The Complete Streets Oversight Board and Complete Streets Director, working with the Township Manager and other municipal departments, shall recommend priority items, and inventory and continuously review and update all procedures, policies, plans, documents, training programs, performance measures and other guidance documents to be consistent with this Complete Streets Policy. The purpose of these reviews of policies and practices is to identify areas where tenets of this Policy will need to be incorporated. This includes, but is not limited to, funding, planning, designing, operating, and maintaining transportation infrastructure. The Township Council shall use these reports to incorporate this Policy as updates to procedures, plans, policies, etc.
- (7) Transportation projects and master and capital plans shall include, when appropriate and feasible, sustainable design elements, including, but not limited to:
 - (a) Traffic calming;
 - (b) Shade trees and other vegetation;
 - (c) Permeable pavements, including those made from recycled materials such as rubber, concrete, glass, and plastic.
- (8) Transportation projects and master and capital plans shall include, where appropriate and feasible, pedestrian and bicycle design elements and transit amenities, including but not limited to curb extensions, sidewalks, radar feedback signs, pedestrian countdown signals, pedestrian refuge islands, road diets, lane width reductions, chicanes, roundabouts, bike lanes, protected bike lanes, bike parking, lighting, wayfinding, seating, trash receptacles, transit amenities, etc.
- (9) The Township Manager shall implement this Policy and coordinate with the Director of the Department of Community Services and Township Engineer with advice and input from the Complete Streets Oversight Board to set measurable goals to ensure the successful implementation of the Complete Streets Policy in the Township and in its priority communities.
- (10) The Township shall utilize the most current editions of guides, manuals, and best practices on street design, construction, operations, and maintenance that apply to bicycle, pedestrian, transit, stormwater, and highway facilities. All manuals, standards, and guidelines shall be made publicly available online, when applicable.

B. Complete Streets Checklists.

- (1) The Complete Streets Director shall develop and adopt (subject to the Oversight Board's approval) one or more Complete Streets Checklists to be used during the project selection, planning, designing, construction, funding, and maintenance of all transportation projects, that are identified as a priority by the Complete Streets Oversight Board.
- (2) Each item in the Checklist(s) must include an area to provide a brief description for how the item is addressed, not addressed, or not applicable to the Complete Streets Policy.
- (3) The Checklist(s) shall explain the process for granting exceptions and indicate who is responsible for approving any exceptions before they are granted.

- (4) For Township-funded transportation projects in which there is no applicant, the Complete Streets Director will be solely responsible for completion of the Checklist.
 - (5) Applicants that appear before the Planning Board or Zoning Board of Adjustment will have their professionals complete the Checklist(s) and submit same to the respective Board's engineers for review.
 - (6) A Complete Streets Checklist shall entail but is not limited to:
 - (a) Existing pedestrian, bicycle, transit, motor vehicle, and truck and freight facilities and operations.
 - (b) Traffic volumes.
 - (c) Existing safety and/or access issues (ADA compliance).
 - (d) Land use within the study area, including trip generators.
 - (e) Existing and proposed streetscape elements including furniture, trees, or other environmental enhancements.
 - (f) Review of existing plans.
 - (g) Proposed pedestrian, bicycle, transit, motor vehicle, and truck and freight facilities, and desired future operations.
 - (h) ADA compliance of the proposed design.
 - (i) Compatibility with the surrounding land use and density.
 - (j) Consistency with applicable design standards and guidelines.
 - (k) Opportunities to improve public health through physical activity and mobility options.
 - (l) Opportunities to manage stormwater through green infrastructure.
 - (7) Complete Streets Checklists shall not be substantively modified without approval from the Complete Streets Oversight Board.
 - (8) All Complete Streets Checklists shall be made publicly available, in electronic format easily accessible on the Township's website, as well as in paper form via the office of the Township Clerk.
- C. Project prioritization process. The Complete Streets Oversight Board shall create a Project Prioritization Process to quantitatively weigh performance measures addressing, but not limited to, safety, multi-modal access, and equity. Projects shall be prioritized to support investment in high injury and crash zones, access to the Complete Streets Network near schools, train transit, bus stops, business districts and parks and investing in priority communities that are most often under invested and underserved. Categories to consider when defining priority communities include:
- (1) Minority concentrations;
 - (2) Low-income household concentrations; and
 - (3) Other indicators of underserved and adversely impacted populations:

- (a) Female head of household with children.
 - (b) Persons with limited English proficiency.
 - (c) Carless households.
 - (d) Elderly populations and children.
 - (e) Persons with disabilities.
 - (f) Hispanic populations.
 - (g) Other ethnic minorities.
 - (h) Families in poverty with children.
- D. Safety Action Plan. The Complete Streets Oversight Board and Complete Streets Director, working with the Township Manager and other municipal departments, shall prepare a Safety Action Plan with measurable goals.
- (1) The Safety Action Plan shall address these areas:
 - (a) Road infrastructure and safety.
 - (b) Bicycle network and access.
 - (c) Pedestrian network and access.
 - (2) The Safety Action Plan shall incorporate Montclair's Safe Complete Streets Implementation Plan as well as the most current editions of guides, manuals, and best practices on street design and maintenance that apply to bicycle, pedestrian, transit, stormwater, and highway facilities.
 - (3) Timelines, including short- and long-term goals shall be addressed, as well as funding. To meet the short- and long-term goals of creating Complete Streets the Township shall allocate a percentage of budget funding each year to further these overall action plans.
 - (4) The Safety Action Plan shall be updated as necessary and the plan, design guides and timelines shall be made available online.
- E. Public participation.
- (1) The Complete Streets Director and Complete Streets Oversight Board will help the Township to comply with the Complete Streets Policy and facilitate community engagement by establishing clear channels of communication with residents and providing ongoing feedback related to the implementation of this Policy. The Complete Streets Director and Complete Streets Oversight Board, through coordination with the Township Manager, shall solicit the feedback of a broad group of stakeholders including, but not limited to:
 - (a) Township elected officials;
 - (b) Law enforcement;
 - (c) Public works;
 - (d) Planners;

- (e) Engineers;
 - (f) Emergency medical service (EMS);
 - (g) Fire Department;
 - (h) Schools;
 - (i) Business and developer community;
 - (j) Civic and advocacy groups;
 - (k) Public health professionals;
 - (l) Transit professionals; and
 - (m) Community members, including persons with disabilities, senior and youth organizations, persons or organizations representing low- and moderate-income communities, people with limited or no access to a vehicle, people with limited English proficiency, and persons of racial or ethnic minorities.
- (2) Beginning with the planning stage, the Township of Montclair shall identify an existing process or develop a new process that allows for public participation in decision-making concerning the design, planning, and use of streets and roadways covered by this Policy.

F. Exceptions.

- (1) A transportation project may not be required to accommodate the needs of a particular user group if the Complete Streets Director determines, in writing, that any one of the following are:
- (a) The use of the transportation facility by the particular user group is prohibited by law, such as pedestrian traffic on roads deemed to be limited-access by state or county authorities;
 - (b) There is a demonstrated absence of both a current and future need to accommodate the category of user. Absence of future need may be shown via demographic, school, employment, and public transportation route data that demonstrate, for example, a low likelihood of bicycle, pedestrian, or transit activity in an area over the next 20 years; or
 - (c) The adverse impacts of implementing this Complete Streets Policy to the transportation project significantly outweigh the benefits.
- (2) An exception shall be granted only if:
- (a) A request for an exception is submitted in writing, with supporting documentation, and made publicly available with a minimum of 30 days allowed for public input; and
 - (b) The exception is approved in writing by the Complete Streets Director and the written approval is made publicly available to the extent permitted by law.

G. Program reporting.

- (1) The Complete Streets Oversight Board shall establish benchmarks, develop plans, and set goals to ensure the successful implementation of the Complete Streets Policy, to make sure all users can travel safely and conveniently along highways, roads, and streets within the Township's jurisdiction and in its priority communities. The Oversight Board shall prepare an annual report

to the Township Council identifying barriers and proposing solutions to successful implementation of this Policy.

- (2) The Oversight Board's annual report will allow the Township Council to evaluate implementation of the Complete Streets Policy. Each annual report shall include the data collected pursuant to program reporting, as well as a list of ongoing and completed transportation projects. If any exceptions are applied to transportation projects, such projects and the applicable exceptions should be identified in the Oversight Board's annual report. All benchmarks and reports shall be made publicly available online.
- (3) The Township Manager or Complete Streets Director shall assign appropriate responsibility to collect and monitor data under the Township's jurisdiction, and in coordination with the county and state when available, to determine compliance with the Complete Streets Oversight Board's benchmarks. Benchmarks shall include but are not limited to:
 - (a) Mileage of new and existing bicycle infrastructure included in priority communities (e.g., bicycle lanes, bike parking, paths, and boulevards).
 - (b) Linear feet (or mileage) of new and existing pedestrian infrastructure (e.g., sidewalks, trails, transit amenities).
 - (c) Number of new and existing Americans with Disabilities Act (ADA)-compliant infrastructure (e.g., curb ramps, pedestrian buttons).
 - (d) Number of new street trees.
 - (e) Number of pedestrian and bicycle lighting improvements.
 - (f) Bicycle and pedestrian counts.
 - (g) Commute mode percentages (e.g., drive alone, carpool, transit, bicycle, walk).
 - (h) The number and percentage of designated transit stops accessible via sidewalks and curb ramps.
 - (i) The number, locations, and causes of collisions, injuries, and fatalities by each mode of transportation.
 - (j) The percentage of children walking or bicycling to school.

MONTCLAIR CODE

Chapter 301

SUBDIVISION OF LAND

[HISTORY: Adopted by the Council of the Township of Montclair 4-29-1980 by Ord. No. 80-13. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 202.

Steep slopes — See Ch. 294.

Sewers — See Ch. 269.

Streets and sidewalks — See Ch. 297.

Site plan review — See Ch. 281.

Zoning — See Ch. 347.

ARTICLE I
General Provisions

§ 301-1. Title.

This chapter shall be known and may be cited as the "Land Subdivision Ordinance of the Township of Montclair."

§ 301-2. Purpose.

The purpose of this chapter is to provide for the regulation of land subdivision in the Township and to establish rules, regulations and standards governing such land subdivision in order to promote the public health, safety, convenience and general welfare of the Township. It shall be administered to ensure orderly growth and development, conservation, protection and proper use of land and adequate provision for circulation, utilities and service.

§ 301-3. Definitions.

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

ALLEY or SERVICE WAY — Any public or private way open to public vehicular use less than 21 feet in width.

BOARD — The Planning Board or the Board of Adjustment of the Township. Where permitted by the Municipal Land Use Law, P.L. 1975, c. 291,¹⁶³ the Board of Adjustment may exercise those functions herein delegated to the Planning Board.

CUL-DE-SAC — A short dead-end street not over 600 feet in length with a turnaround at the end.

DRAINAGE RIGHT-OF-WAY — The lands required for the installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the New Jersey Revised Statutes.¹⁶⁴

FINAL PLAT — The final map of all or a portion of the subdivision which is presented to the Planning Board for final approval in accordance with this chapter and which, if approved, shall be filed with the proper county recording officer, except in the case of minor subdivisions as set forth in § 301-39B.

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.

MINOR SUBDIVISION — Any subdivision of a tract or parcel of land which does not involve the creation of more than two lots fronting on a public street, planned development, any new street or the extension of any off-tract improvement.

PLAT — The map of a subdivision.

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. "Street" includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks,

¹⁶³Editor's Note: See N.J.S.A. 40:55D-1 et seq.

¹⁶⁴Editor's Note: Repealed by L. 1945, c. 22. See now N.J.S.A. 58:1-1 et seq.

parking areas and other areas within the street lines.

SUBDIVIDER — Any person commencing proceedings under this chapter to effect a subdivision of land hereunder.

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter if no new streets are created: divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the Chair to be for agricultural purposes where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property upon court order; and conveyances so as to combine existing lots by deed or other instrument. The term "subdivision" shall also include the term "resubdivision."

§ 301-4. Compliance.

All subdivisions of land within the Township are hereby required to be effected subject to regulation under this chapter. No plat of any such subdivision shall be filed by any person with the county recording officer as purporting to be in compliance with this chapter and with Section 28 of the Municipal Land Use Law (N.J.S.A. 40:55D-37) unless and until the same shall be approved by the Planning Board, and such approval, signed by the Secretary of the Planning Board, shall have been endorsed on such plat.

§ 301-5. General design standards.

- A. Subdivision plats shall conform to design standards that will encourage good development patterns within the Township. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on the Master Plan or Official Map shall be shown on the final plat and shall be such as to lend themselves to the harmonious development of the Township and enhancement of the public welfare in accordance with the design standards set forth in this chapter. The Planning Board shall further require that all lots shown on the plats be adaptable for the intended purposes without danger to health or peril from flood, fire, erosion or other menace.¹⁶⁵
- B. When the Planning Board has adopted portions of a Master Plan with proposals regarding the street system within a proposed subdivision, the Board may require that the streets shown conform in design and in width to the proposals shown on the Master Plan. In acting upon plats, the Planning Board shall require, among other conditions in the public interest, that the tract shall be adequately drained; that the streets shall be of sufficient width and suitable grade and suitably located to accommodate the prospective traffic and to provide access for fire-fighting equipment to buildings; and that the streets shall be coordinated so as to compose a convenient system, conforming to the Official Map or, if there is no Official Map, relating properly to the existing street system. No street of a width greater than 50 feet within the right-of-way lines may be required unless said street already has been shown at the greater width on the Master Plan or the Official Map.
- C. The Planning Board or Subdivision Committee may disapprove an application for the subdivision of land on which there exists a principal building if the application proposes to create a lot or lots on which a building, if erected, could disturb the uninterrupted frontage of the existing building to the street on which said lot or lots are proposed to front.

§ 301-6. Variances.

- A. The Planning Board, when reviewing applications for approval of subdivision plats, site plans or

¹⁶⁵Editor's Note: See Ch. 161, Flood Hazard Areas.

conditional uses, shall have the power to grant, to the same extent and subject to the same restrictions as the Board of Adjustment pursuant to N.J.S.A. 40:55D-60:

- (1) Variances, pursuant to § 202-21A(3) of the Montclair Code concerning bulk standards.
[Amended 6-8-1982 by Ord. No. 82-22]
 - (2) Direction for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to the Municipal Land Use Law.
 - (3) Direction for issuance of a permit for a building or structure not related to a street.
- B. Whenever relief is requested pursuant to this section, notice of the hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

ARTICLE II
Streets and Sidewalks

§ 301-7. General design of residential streets.

- A. All residential streets other than main traffic arteries shall be designed so as to:
- (1) Provide for the continuation of the principal streets in the adjoining subdivisions where reasonably required for harmonious development.
 - (2) Discourage other than local traffic.
 - (3) Provide for the proper projection when adjoining property is not subdivided, subject to any required access control strip where reasonably required for harmonious development.
 - (4) Provide adequate separation by way of street design from other developments where such is reasonably required to avoid undue traffic on local residential streets.
 - (5) Provide a marginal access road or reverse frontage with a buffer strip for planting or some other means of separation where the subdivision abuts thoroughfares where such marginal access road or reverse frontage is reasonably required to avoid interference with the flow of traffic on the thoroughfare or to preserve the value of property abutting on such thoroughfare.
 - (6) Give adequate recognition to existing topography.
 - (7) Be not only conducive to the proper development of the immediate subdivision but also in a manner which will not adversely affect the neighborhood.
 - (8) Comply with the standards relating to streets set forth in § 301-5.
- B. If a street does not maintain a straight course or alignment between its intersections with another street or streets and if the center line of one straight section thereof, when projected, makes a deflection angle between 10° and 60°, inclusive, with an adjoining straight section thereof, such section shall be connected by a curved street section having a center-line radius of not less than 75 feet. If such deflection angle is in excess of 80°, the curved street section shall have a center-line radius not less than 50 feet.

§ 301-8. Planning Board assistance.

Upon the request of any developer, the Planning Board shall cause to be submitted to him or her a preliminary proposal concerning the street design or alignment for the land included within its proposed subdivision.

§ 301-9. Street widths.

Street widths in residential areas shall be a minimum of 50 feet. The Board may require greater street widths to assure the free flow of traffic where such widths are shown on the Master Plan or the Official Map. Subdivisions which adjoin or include existing streets not conforming to width requirements of this chapter may be required to dedicate lands along either one or both sides of said road for widening. If the subdivision is along one side only, 1/2 of the required extra width may be required to be dedicated.

§ 301-10. Street grades.

- A. Grades for main traffic arteries shall not exceed six feet in 100 feet.
- B. Grades for all streets other than main traffic arteries shall not exceed 10 feet in 100 feet.
- C. No street shall have a grade of less than one foot in 100 feet.
- D. A vertical curve shall be provided at each change of grade. Vertical curves shall have a length sufficient to enable a driver with eye at 4 1/2 feet above the street surface to observe a four-inch-high object in the same lane at a distance of not less than 150 feet, but in no case shall the length of a vertical curve be less than 100 feet.

§ 301-11. Street intersections.

- A. The intersections of streets shall be at an angle of 90° or as close to such angle as is practicable, but in no case shall an intersection be at an angle of less than 60°.
- B. When two streets of the same general direction intersect another street so as to create a jog, the center lines of such former two streets at their points of intersection with such other street shall be at least 125 feet distant from each other.

§ 301-12. Curb and property line radii.

Curbs shall have a minimum radius of 20 feet at street corners. Normally the radius on the property line shall not be less than 10 feet. Longer radii shall be provided when the Planning Board finds it reasonably necessary to accommodate traffic or topographical conditions or when a special feature of a subdivision requires emphasis.

§ 301-13. Culs-de-sac; easement to Township.

- A. The maximum length of a cul-de-sac shall be 600 feet, unless topography or lack of other means for providing access to an area would necessitate greater lengths. Culs-de-sac over 600 feet shall conform to requirements for other residential streets.
- B. There shall be a turnaround roadway with a minimum outside radius of 48 feet at the closed end, and additional space subject to the approval of the Township Engineer shall be provided outside the roadway for the removal of snow.
- C. If in a development a street which is planned for extension in a future development is temporarily dead ended, a temporary turnaround of a minimum outside radius of 48 feet shall be provided at each dead end. In such case, easement shall be granted to the Township for the maintenance thereof until such street is extended and another turnaround or other means of circulation of traffic is provided.

§ 301-14. Access to streets; easements.

There shall be no reserve strips controlling access to streets except where the control of such strips is definitely placed with the Township under conditions prescribed by the Planning Board or the Board of Adjustment. The subdivision of the land shall be such as to provide each lot, by means of either a public street or a way of permanent easement, with satisfactory access to an existing public street or one which is to be constructed at the same time as the street or way shown on such subdivision.

§ 301-15. Service ways.

Service ways shall be provided in business areas no less than 20 feet in width for access to block interiors for off-street loading and parking purposes. Such ways, where adjacent to residential areas, shall be carefully screened from such residential areas by planting or equally suitable means as approved by the Board.

§ 301-16. Length and width of blocks.

Block length and width and acreage within bounding roads shall be such as to accommodate lots of the size required in the area by Chapter 347, Zoning, or this chapter and to provide for convenient access, circulation control and safety of street traffic.

§ 301-17. Sidewalks and walkways.

- A. Sidewalks shall be required in all subdivisions. Sidewalks shall be four feet wide. The Planning Board, however, may determine that there should be sidewalks on only one side of the street or that no sidewalks should be provided if it finds that one of the following conditions exists and if it further finds that the public safety will not be adversely affected thereby:
- (1) The new street shown on the subdivision plat is an extension of an existing street where there is a sidewalk on only one side or there is no sidewalk, as the case may be.
 - (2) There are other subdivisions in the neighborhood where there are sidewalks on only one side of the street or no sidewalks, and it would be unreasonable to require a sidewalk on more than one side of the street or any sidewalk.
 - (3) The open or rural character of the subdivision development would be best preserved by a sidewalk on only one side of the street or by no sidewalk.
- B. In blocks over 600 feet long, pedestrian walkways may be required in locations deemed necessary by the Board. Such walkways shall be 10 feet wide. The design and direction of such walks shall be such as to provide a most convenient and accessible walkway. Walkways shall be provided with a sidewalk not less than four feet in width, and proper lighting therefor shall be provided. An easement for such walkways shall be dedicated to the Township.

§ 301-18. Width of pavement, grass strips and sidewalks.

The street standards with respect to the width of pavement, grass strips and sidewalks shall be as follows:

Street Width (feet)	Center of Street to Edge of Pavement (feet)	Grass Space (feet)	Sidewalk (feet)	Grass Space (feet)
50	14	5	4	2
55	15	5.5	4	3
60	18	5	4	3
66	20	5	4	4

§ 301-19. Standards for pavements and curbs. [Amended 6-15-2004 by Ord. No. 04-34]

The subdivider shall construct curbs and pavements in accordance with the provisions of Chapter 297, Streets and Sidewalks, Article I, Curbs, Sidewalks and Driveways, and in compliance with the engineering requirements of the Department of Community Services of the Township.

§ 301-20. Trees and shrubs.

- A. Provision shall be made for the planting of shade trees of such type and size and at such reasonable intervals as shall be approved by the Planning Board. Shade trees shall be located on the property line and shall not be planted closer than 25 feet to an existing or proposed street intersection.
- B. Existing trees near street rights-of-way and within the property shall be preserved by the subdivider where practical.
- C. Shade trees will not be required if the Board finds that the trees already existing on the property to be subdivided, and which will not be required to be destroyed by the subdivision, will provide sufficient foliage and that the resulting informal arrangement of trees in the subdivision will be at least equally desirable. In any such instance, the Board may require the planting of such shrubs as it may designate in lieu of such street border trees.

§ 301-21. Utility installations along streets.

Where practical on all new streets and on the extension of existing streets, utility mains shall be placed in rights-of-way on the sides of the roadway. Water and storm sewer installations shall be placed on one side and gas and sanitary sewer on the other side to simplify location and repair of the lines if they require attention.

§ 301-22. Street names.

- A. No street names shall be used which will duplicate or be confusing phonetically with the names of existing streets in the Township.
- B. A new street which is an extension of or generally in alignment with an existing street shall bear the name of the existing street.

§ 301-23. Street signs.

Street signs shall be installed at all street intersections and shall be in character with and similar to the standard street signs in the immediate area.

§ 301-24. Topsoil protection.

No topsoil shall be removed from the site or used as spoil. A minimum depth of six inches of topsoil shall be stabilized and maintained in all open areas. The subdivider shall ensure that no rubbish or debris (dead trees and the like) is left on public land at the completion of the project.

ARTICLE III

Lots**§ 301-25. General design standards for residential lots.**

The design of residential lots shall comply with the following standards:

- A. Double frontage shall be avoided.
- B. Side lines of lots shall be approximately at right angles or radial to the street lines unless, in the opinion of the Planning Board, a variation from this requirement will give a better street and lot plan.
- C. Corner lots shall have extra width sufficient to permit maintenance of building lines on both front and side.
- D. Where a subdivision creates a small remnant lot that does not conform to the area width and depth standards of Chapter 347, Zoning, and of this chapter, such remnant lot shall be added to an adjoining lot or lots; or, if not so added to an adjoining lot or lots, such remnant lot shall not be deemed to be a building lot, shall be so marked on the subdivision plat and shall be left in that status until such time as it is added to such adjoining lot or lots.
- E. Lot lines other than street frontages should be straight lines or follow topographic features, except where existing property lines may require other treatment.
- F. Intersecting property lines on corner lots adjacent to the street lines should be rounded with a curve of suitable radius, in no case less than 10 feet.
- G. Where the Master Plan or the Official Map shows a proposed widening of an existing street upon which lots within a proposed subdivision will front, all setbacks on said lots shall be measured from the new street line as proposed on the Master Plan or the Official Map.

§ 301-26. (Reserved)¹⁶⁶**§ 301-27. (Reserved)****§ 301-28. (Reserved)**

¹⁶⁶Editor's Note: Former §§ 301-26, Width of lots, 301-27, Lot sizes in R-O, R-O(a), R-1 and R-2 Zones, and 301-28, Lot sizes in R-3, OR-3, R-4, OR-4, C-1, C-2 and N-C Zones, were deleted from this chapter 11-29-2005 by Ord. No. 05-61 and included in Chapter 347, Zoning. See now §§ 347-28-1, 347-28-2 and 347-28.3.

ARTICLE IV
Utilities and Improvements

§ 301-29. Duty of subdivider to provide utilities.

The subdivider shall provide for the disposal of sanitary sewage and stormwater and for the installation of such other utilities as may be necessary.

§ 301-30. Service connections.

The subdivider shall install underground service connections before the street is paved and shall provide extensions to the lot line.

§ 301-31. Utility easements.

The Board may require easements not exceeding 12 feet in width at the rear lot lines and, additionally, an access easement not exceeding 12 feet in width, unless other access for utilities to the rear lot lines is provided, for poles, wires, conduits, storm and sanitary sewers, gas, water or other utilities. Easements of the same or greater width may be required along the lines of or across lots wherever necessary for the extension of existing or proposed utilities.

§ 301-32. Storm drains and sanitary sewers.

All installations of storm drains and sanitary sewers shall be connected with an approved system, shall be adequate for all present and probable future development and shall be made according to the requirements of the Township.

§ 301-33. Individual sewage disposal systems.¹⁶⁷

- A. Wherever it is impossible to provide or connect to a sanitary sewer system, the Board may approve an individual sewage disposal system which conforms to all requirements of the Health Code and the Building Code of the Township.¹⁶⁸ In such cases, the subdivision plat shall show the proposed location of the individual sanitary sewage disposal units and system and shall be accompanied by plans for such units and system and by a certified copy of percolation tests which have been made at such proposed locations. No subdivision, or part thereof, shall be approved where results of said percolation tests do not meet with the established requirements of this chapter or other applicable ordinances or regulations, nor shall any subdivision, or part thereof, be approved where other physical characteristics of the land would cause septic conditions unhealthful to the public or which is contrary to the requirements of this chapter or other applicable ordinances or regulations. Any remedy proposed to overcome such situations or conditions shall first be approved by the Health Department of the Township.
- B. Nothing in this section shall be deemed to prohibit or to prevent the Board from requiring the installation of sanitary sewer mains and service connections in cases where it approved an individual sewage disposal system.

¹⁶⁷.Editor's Note: See Ch. 269, Sewers.

¹⁶⁸.Editor's Note: See Ch. 186, Health Standards, and Ch. 121, Construction Codes, Uniform.

§ 301-34. Water mains and hydrants.

The subdivider shall arrange with the Superintendent of the Water Bureau for the installation of water mains and water hydrants.

§ 301-35. Telephone and electric lines.

Telephone and electric lines shall be placed at the rear of lots or underground. Easements therefor shall be provided as set forth in § 301-14 in all cases, even though utilities immediately constructed may not be required to follow such easement.

§ 301-36. Streetlighting.

Metal ornamental streetlight poles shall be installed where required, the poles to be of the general design and character of those installed in new residential subdivisions since 1950. Electrical service connections to said poles shall be by underground installations.

ARTICLE V
Major Subdivision Procedure

§ 301-37. Plat requirements for preliminary and final approval.

- A. Plats shall be clearly and legibly drawn or reproduced on tracing cloth at a scale of not less than one inch equals 30 feet, on sheets no larger than two feet by three feet. All levels shall be based on North American data. Bench mark for levels shall be noted on the plat. All plats shall be designed and drawn by a licensed New Jersey land surveyor or civil engineer, provided that where improvements to the land other than monuments are to be installed, such improvements shall be designed by a licensed New Jersey engineer. **[Amended 7-25-2006 by Ord. No. 06-44]**
- B. Plats shall be designed in compliance with the design and improvement standards of this chapter and with all the provisions of P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.), as supplemented and amended.
- C. Plats shall show or be accompanied by the following information:
- (1) A key map showing the entire property, whether all or part only is to be immediately subdivided, and showing its relation to surrounding areas.
 - (2) The tract name, block and lot numbers, date, reference meridian, graphic scale and the names and addresses of the record owner or owners, the subdivider and the person who prepared the map.
 - (3) Acreage of the tract to be subdivided to the nearest tenth of an acre.
 - (4) The location within the subdivision of existing property lines, tract boundary lines, streets, buildings, watercourses, railroads, bridges, culverts, drainpipes, easements and any natural features, such as wooded areas and rock formations and also existing trees with a diameter of over eight inches, except that this requirement may be waived where there are groups of such trees which are not to be disturbed.
 - (5) The location of proposed streets, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings, radii, arcs and central angle of curves.
 - (6) The purpose of any easement or land reserved or dedicated to public use designated and the proposed use of sites other than residential noted.
 - (7) Each block shall be numbered, and the lots within each block shall be numbered consecutively.
 - (8) Minimum building setback line on all lots.
 - (9) Dimensions from all structures to the lot lines so that the side yards, rear yard and front yard are shown.
 - (10) Location and description of all monuments.
 - (11) Names of owners of adjoining land, as shown by the Tax Maps.
 - (12) Certification by the engineer or surveyor as to accuracy of details of plat.
 - (13) Certification that the applicant is the owner of the land. Where the application is made through

an agent of the owner, his or her authority must be in writing, signed by the owner and authenticated in a manner satisfactory to the Planning Board.

- (14) When deemed necessary by the Planning Board or the Board of Adjustment, contours at vertical intervals of not more than five feet where the slope is greater than 10% and not more than two feet where the slope is less than 10%. Elevations shall be marked on such contours based on North American data.
- (15) Plans, profiles and cross sections of all proposed streets within the subdivision and profiles of existing or future continuing streets a minimum distance of 200 feet beyond the subdivision boundaries.
- (16) Plans of proposed utility layouts (water, gas and electricity) showing feasible connections to an existing or any proposed utility system.
- (17) Plans and profiles of all proposed and existing sanitary sewers, storm drains, drainage ditches and streams within the subdivision, together with the locations, sizes, elevations, grades and capacities of any existing sanitary sewer, storm drain, drainage ditch or stream to which the proposed facility is to be connected. When storm drains, drainage ditches or brook channel improvements are proposed or required, the plan for such improvement must be approved by the State Water Policy Commission if said improvement is of sufficient size to so warrant.
- (18) Location and results of percolation tests where a public sewage disposal system is not available.
- (19) Plans for an individual sewage disposal system where same is proposed.
- (20) Where the development of the subdivision or improvements within the subdivision are contingent upon information outside the boundaries of such subdivision, such information shall be supplied by the subdivider.
- (21) A copy of any protective covenants or deed restrictions applying to the land being subdivided.
- (22) Location and types of other improvements required to be installed by this chapter.
- (23) In any subdivision where the average slope of any proposed lot exceeds 10%, hypothetical site plans for each lot in the proposed subdivision showing the expected location of structures, paved surfaces, regraded areas and other areas of land disturbance. Such plans shall show drainage swales, seepage pits, retention and detention basins or other devices needed to control storm- and groundwater runoff. "Average slope" shall be defined as the difference between the highest and lowest ground elevation on opposite sides or boundaries of a proposed lot divided by the minimum horizontal distance between such high and low points. **[Added 3-3-1981 by Ord. No. 81-7; 10-6-1998 by Ord. No. 98-42]**
- (24) Satisfaction of Chapter 294, Steep Slopes. **[Added 10-6-1998 by Ord. No. 98-42]**
- (25) Streetscape elevations of proposed buildings and buildings immediately adjacent to proposed buildings to show new construction within the context of the surrounding built environment. **[Added 12-19-2006 by Ord. No. 06-71]**

§ 301-38. Notice and hearing.

The Planning Board or Board of Adjustment shall hold a public hearing on all applications for approval of major subdivisions. The Board shall publish notice of such hearing in the official newspaper of the

Township at least 10 days prior to the hearing. The applicant shall give notice of the hearing at least 10 days prior thereto to the owners of all property within 200 feet of the property which is the subject of such hearing; such notice shall be given by personal service on the property owner or by certified mail to the property owner at his or her address as shown on the current tax duplicate. The notice of hearing shall state the time and place of the hearing and shall contain a brief description of the property involved, a statement as to its location, a list of the maps and other documents to be considered and a summary statement of the matters to be heard.

§ 301-39. Conditions of final approval.

- A. Before final approval of any plat, the Planning Board shall require an endorsement on the plat by the Township Engineer approving the design and location of all utilities. No such endorsement of approval shall be made by the Township Engineer until he or she is in receipt of a map showing all utilities in exact location and elevation, identifying those portions already installed, and the subdivider has complied with one of the following:
 - (1) Installed all improvements in accordance with the requirements of this chapter.
 - (2) Posted a performance guaranty with the Municipal Clerk, approved as to form by the Township Attorney, in sufficient amount, as determined by the Township Engineer, to assure the completion of all required improvements.
- B. Approval of plats as required by the county land subdivision review regulation must be obtained before filing of the plat.

ARTICLE VI
Minor Subdivision Procedure
[Added 9-16-1980 by Ord. No. 80-55]

§ 301-40. Plat requirements.

If a plat of a minor subdivision is to be recorded with the county recording officer, the plat shall be clearly drawn and legibly lettered on tracing cloth at a scale not smaller than one inch equals 100 feet. The plat shall be certified by a licensed engineer or land surveyor of New Jersey, shall conform to the requirements of P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.), as supplemented and amended, and shall include all of the items required of plats for major subdivisions in § 301-37 that are applicable to said minor subdivision.

§ 301-41. Acceptance of deed in lieu of plat.

The Planning Board may accept for review and approval, instead of a plat, a deed clearly describing the minor subdivision.

ARTICLE VII
Recording of Plats

§ 301-42. Expiration of approval; extension; notification of filing.

For major subdivisions, final approval shall expire 95 days from the signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. The plat filed shall have been signed by the Chair and Secretary of the Planning Board. The developer shall notify the Planning Board of such filing by affidavit within the required time period.

§ 301-43. Filing of plat with Township officials.

Upon approval of a plat or, in the case of a minor subdivision, a deed, a print or copy shall be filed by the Planning Board with the Municipal Clerk, Township Engineer, Township Building Inspector and Township Tax Assessor.

ARTICLE VIII

Penalties

§ 301-44. 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.

Chapter 305**SWIMMING POOLS**

[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 Art. I of Ch. 200 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 121.

Sewers — See Ch. 269.

Health standards — See Ch. 186.

Zoning — See Ch. 347.

Fees for use of swimming pools — See Ch. 234.

§ 305-1. Definitions.

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

PRIVATE SWIMMING POOL or POOL — An outdoor or indoor swimming pool or swimming tank, whether permanently installed, portable, collapsible or otherwise, having either an inside structural depth in excess of 24 inches or a surface in excess of 120 square feet or a capacity in excess of 1,400 gallons, constructed or maintained upon any premises by any person for use by himself or herself, his or her family or guests.

§ 305-2. Permit required; fee. [Amended 5-23-2000 by Ord. No. 00-19]

No person shall construct a private swimminpool without first obtaining a permit from the Construction Code Official. The fee for a permit shall be in accordance with Chapter 121, Construction Codes, Uniform, § 121-4, which shall be paid upon filing the application therefor.

§ 305-3. Application for permit.

Application for a permit shall be made on a form prescribed by the Construction Code Official. There shall be filed with the application three sets of plans and specifications or proper descriptive brochures, together with a plot plan, drawn to scale, showing the entire lot upon which the pool is proposed to be constructed. The plot plan shall indicate the exact size, shape and location of the pool and its distance from the property lines and from all structures on the lot and shall show the location of any overhead electrical conductors in the pool area.

§ 305-4. Issuance of permit.

- A. The Construction Code Official shall issue a permit for the construction or installation of the pool if the application therefor shows compliance with this chapter and with the requirements of Chapter 186, Health Standards, the Building Code,¹⁶⁹ Chapter 347, Zoning, and other pertinent ordinances and regulations of the township.

¹⁶⁹Editor's Note: See Ch. 121, Construction Codes, Uniform.

- B. Upon receipt of an application, the Construction Code Official shall forthwith notify the Health Officer of the Township of Montclair of the receipt of the application, whereupon the Health Officer shall make an inspection to determine whether or not the proposed pool meets with the requirements of Chapter 186, Health Standards. After making such inspection, the Health Officer shall immediately notify the Construction Code Official, in writing, of his or her approval of the application or of his or her disapproval of the application and the reasons therefor.

§ 305-5. Lot restriction.

No private swimming pool shall be constructed or installed on any lot unless there shall be located upon the lot a residence building as defined in Chapter 347, Zoning.

§ 305-6. Location of pools on lots.

In the construction or installation of any private swimming pool, the location of the pool shall meet the following requirements:

- A. The distance from any side lot line to the inside face of the pool wall shall be at least 15 feet; provided, however, that a pool may be located on a lot with a minimum distance of 10 feet between the side lot line and the inside face of the pool wall if a hedge or dense shrub planting at least four feet high is maintained between the area devoted to the pool and the side lot line.
- B. The distance between the street on which the property fronts and the inside face of the pool shall not be less than the existing distance between the street line and the main front wall of any structure on such property.
- C. The distance between the rear lot line and the inside face of the pool wall shall be at least 10 feet.
- D. All pumps and filtration systems shall be kept at a maximum distance from all property lines and shall be at least 10 feet from any property line.

§ 305-7. Lighting.

All outside lights for illumination of the pool and the area devoted to the pool shall be so installed and maintained as to eliminate glare and to prevent annoyance to persons on adjoining properties.

§ 305-8. Materials and construction.

Pools shall be constructed and installed in such manner as to be waterproof and susceptible of being readily cleaned. Sand or earth bottoms shall not be permitted. The bottom and sides shall be either white or a light color. No aluminum paint may be used as a finish.

§ 305-9. Water supply system.

No physical connection shall be made or permitted between potable water systems and pool circulation systems. Potable water for makeup and filling purposes shall be introduced into a pool by means of a discharge pipe turned downward over a float-controlled surge tank or over the pool itself. In either case, there shall be an air gap of at least six inches between the orifice of the discharge pipe or hose and the pool or tank overflow level.

§ 305-10. Water discharge system.

- A. Every pool constructed after February 13, 1957, shall have one and only one discharge pipe for draining the pool. Such discharge pipe shall be of galvanized iron or other type pipe approved by the Construction Code Official not more than two inches in diameter, extending from the said pool to either a storm sewer, brook, dry well or other surface drainage. The discharge system shall be approved by the Township Engineer at the time application for a permit is made. In arriving at his or her determination, the Township Engineer shall have due regard for the capacity of storm sewers available to the lot on which the pool is to be constructed and the feasibility of dry wells and the availability of streams or brooks or other surface drainage. Surface drainage shall not be permitted where such disposal of wastewater will adversely affect any other properties. **[Amended 5-23-2000 by Ord. No. 00-19]**
- B. No such discharge pipe shall be extended to or connected with a sanitary sewer unless special permission shall first be obtained in writing from the Township Engineer. In cases in which such special permission is granted, no person shall discharge any water from a pool into a sanitary sewer unless at least 48 hours' advance notice in writing has been given to the Township Engineer and prior written permission has been obtained from him or her.

§ 305-11. Disinfection, filtering and bacteriological standards.

Every pool shall be installed and maintained in accordance with, and the water contained therein shall comply with the approved disinfection, filtering and bacteriological standards set forth in Article V of Chapter 186, Health Standards.

§ 305-12. Fencing enclosure for outdoor pools. [Amended 5-17-1988 by Ord. No. 88-23; 5-23-2000 by Ord. No. 00-19]

Every outdoor pool shall be completely enclosed by a fence or barrier of durable construction, at least four feet high, otherwise complying with the fence standards of Chapter 347, Zoning, and the Uniform Construction Code.¹⁷⁰ Any opening or mesh in the fence as finally constructed shall not be greater than 16 square inches in area, except that a fence with rigid bars or pickets spaced no more than four inches apart shall be permitted. Every gate of such fence shall be kept securely locked at all times when the pool is not in use.

§ 305-13. Electrical work. [Amended 5-23-2000 by Ord. No. 00-19]

All electrical wiring for light and power in connection with swimming pools shall be installed in strict accordance with the requirements of the current National Electrical Code. All equipment must carry the seal of approval of a nationally approved agency, and all wiring must be inspected and approved by the Montclair Electrical Subcode Official.

§ 305-14. Variances. [Amended 12-30-1980 by Ord. No. 80-67; 5-23-2000 by Ord. No. 00-19]

The Board of Adjustment shall have the power to authorize, upon application in specific cases, variances from the terms of this chapter.

§ 305-15. 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

¹⁷⁰Editor's Note: See Ch. 121, Construction Codes, Uniform.

§ 305-15

SWIMMING POOLS

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.

MONTCLAIR CODE

Chapter 309

TAXATION

[HISTORY: Adopted by the Board of Commissioners (Arts. I and II), now Township Council (all subsequent articles), as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Finance — See Ch. 3, Art. VIII.

Alcoholic beverage licensing — See Ch. 74.

ARTICLE I

Tangible Household Personal Property Exemption

[Adopted 4-15-1980 by Ord. No. 80-12 as Art. I of Ch. 111 of the 1979 Code]

§ 309-1. Exemption stated.

All tangible household personal property and personal effects located within the Township of Montclair shall not be assessed and taxed.

§ 309-2. Applicability.

This article shall apply to taxes on tangible household personal property and personal effects due and payable in the year 1962 and thereafter so long as this article shall be in effect, but shall not affect the obligation, lien or duty to pay any taxes, interest or penalties which have accrued or may accrue by virtue of any assessment made or which may be made with respect to any such taxes levied for any year prior to the year 1962, nor shall this article affect the legal authority to assess and collect any such taxes which may be or have been due and payable prior to January 1, 1962, together with such interest and penalties as would have accrued thereon under any provisions of law amended or repealed hereby; nor shall this article invalidate any assessments or affect any proceedings for the enforcement thereof pending upon the effective date of this article or upon January 1, 1962, or during the period between said dates.

§ 309-3. Filing of copies.

A certified copy of this article shall be filed with the Division of Taxation in the Department of the Treasury of the State of New Jersey and with the County Board of Taxation of Essex County.

ARTICLE II

Tax Liens on Fire-Damaged Property**[Adopted 4-15-1980 by Ord. No. 80-12 as Art. II of Ch. 111 of the 1979 Code]****§ 309-4. Prerequisite for payment of insurance claims.**

No insurance company authorized to issue fire insurance policies in the Township of Montclair shall pay to a claimant any claim in excess of \$2,500 for fire damages on any real property located within the Township of Montclair until such time as all taxes, assessments and all other municipal liens or charges due and payable appearing on the official certificate of search shall have been paid either by the owner of such real property or by the insurance company, all in accordance with N.J.S.A. 17:36-8 et seq.

§ 309-5. Payment of taxes in installments.

In lieu of the requirements imposed by § 309-4, the Township of Montclair may enter into an agreement with the owner of any fire-damaged property to pay in full all delinquent taxes, assessments or other municipal liens by installments pursuant to N.J.S.A. 54:5-19, or for the redemption of the tax sale lien by installment payments pursuant to N.J.S.A. 54:5-65 to 54:5-76, if the Township Council is satisfied that the claim for fire damages is to be used to restore or improve the fire-damaged property. An insurance company receiving a certified copy of a resolution of agreement from the Township Council is authorized to make full payment on the claim to the insured person.

§ 309-6. Contest as to amount of lien.

Unless a resolution is received in accordance with the provisions of § 309-5, an insurance company writing fire insurance policies in the Township of Montclair shall, prior to the payment of any claims for fire damages in excess of \$2,500 pay to the Township of Montclair the amount of the liens appearing on the official certificate and such other recorded liens or related charges as may be certified to the insurance company; provided, however, that if an appeal is taken on the amount of any lien or charge, other than an appeal on the assessed valuation of real property pursuant to N.J.S.A. 54:3-21, the insurance company shall withhold 75% of the full amount of the lien or charge being contested pending termination of all proceedings, at which time such moneys and all interest accruing thereon at a rate paid on interest-bearing accounts in banking institutions or savings and loan associations in New Jersey shall be disbursed in accordance with the final order or judgment of the court.

§ 309-7. Applicability.

The provisions of this article shall apply to fire insurance policies issued or renewed after the effective date of this article.

ARTICLE III

Denial of Licenses for Nonpayment of Taxes**[Adopted 5-3-1988 by Ord. No. 88-21]****§ 309-8. Denial of permit or license; conditions.**

No permit or license requiring the approval of the Township of Montclair shall be issued to the owner of any property unless all delinquent property taxes or assessments on the property wherein the business or activity for which the license or permit is sought, or wherein the business or activity is to be conducted, have been paid in full.

§ 309-9. Revocation or suspension of license or permit.

A license or permit requiring the approval of the Township of Montclair, which was previously issued to an owner of property, may be revoked or suspended if the owner of the property upon which the business or activity is to be or is being conducted has failed to pay the taxes or assessments due on the property for at least three consecutive quarters. Upon payment of the delinquent taxes or assessments, the license or permit shall be restored.

§ 309-10. Exception.

The provision of this section shall not apply to or include any alcoholic beverage license or permit issued pursuant to the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq.¹⁷¹

171.Editor's Note: See Ch. 74, Alcoholic Beverages.

ARTICLE IV

Tax Exemption and Abatement Agreements
[Adopted 3-2-2004 by Ord. No. 04-05]**§ 309-11. Statement of intention.**

The Township of Montclair, pursuant to N.J.S.A. 40A:21-1 et seq., makes known its intention to utilize the tax exemption and abatement provision enacted by the New Jersey Legislature to authorize five-year exemptions and abatements for dwellings in the Pine Street redevelopment area.

§ 309-12. Definitions.

Terms used as defined terms herein shall have the meaning assigned to such terms at N.J.S.A. 40A:21-3 or as set forth below:

AGREEMENT — A tax agreement entered into between a developer and the Township under the Five-Year Exemption and Abatement Law, including all amendments and supplements thereto.

APPLICATION — The information required to be submitted by a developer seeking an exemption and/or abatement, and conforming to the requirements of § 309-14 hereof.

ASSESSOR — The Tax Assessor of the Township.

AUDIT — An audit prepared by a certified public accountant presenting the revenues, operating expenses and fund balances relating to a project.

CHIEF FINANCIAL OFFICER — The chief financial officer of the Township.

CONSTRUCTION CODE OFFICIAL — The Township official responsible for approving construction permits for any property.

DEVELOPER — The person or entity who is seeking or receiving an exemption and/or abatement, including an assignee in any case where the Township Council has approved the assignment thereof.

EXEMPTION AND ABATEMENT ACT — The Five-Year Exemption and Abatement Law (N.J.S.A. 40A:21-1 et seq.), as amended and supplemented.

PLANNING DIRECTOR — The person or persons, if any, designated by the Township Council to conduct the development review required by this article.

PROJECT — The real property and the improvements thereon which are the subject of an agreement and are located within an area in need of rehabilitation or redevelopment.

PROPERTY — The real property and the improvements subject to an agreement.

TAX COLLECTOR — The Tax Collector of the Township.

TOWNSHIP — The Township of Montclair, in the County of Essex, New Jersey.

TOWNSHIP ATTORNEY — The attorney-at-law appointed by the Township to serve as the municipal attorney.

TOWNSHIP CLERK — The Clerk of the Township.

TOWNSHIP COUNCIL — The Township Council of the Township of Montclair.

TOWNSHIP MANAGER — The Manager of the Township.

§ 309-13. Eligible property.

Developers of property located in an area in the Pine Street redevelopment area in the Township of Montclair may avail themselves of the opportunity to receive a five-year tax exemption and/or abatement as provided in this article as follows:

- A. Written application to the Township Assessor filed not later than 30 days, including Saturdays and Sundays, following completion of improvements.
- B. Payment of all municipal taxes and charges must be current.
- C. Approval by ordinance of the Township Council.

§ 309-14. Application for exemption.

No exemption or abatement shall be granted nor any agreement considered unless the developer shall first have filed an original and seven copies of an application with the Township Assessor with the application fee.

- A. Application fee. No application for an exemption and/or abatement submitted pursuant to this article shall be accepted unless it is accompanied by full payment of the required application fee. The fee shall be in the amount of \$500. These fees shall be received as compensation for the legal review and related work of the Township's departments, agencies, officials, agents and employees in reviewing the application. All checks shall be made payable to the Township of Montclair. This application fee shall be nonrefundable and may be waived by a resolution of the Township Council.
- B. Contents of application. At a minimum, application for an exemption and/or abatement shall provide the Township Council with the following information:
 - (1) A general description of a project for which exemption and/or abatement is sought, a finding that the project accords with the applicable redevelopment plan and Master Plan of the Township and an estimated schedule of completion for the project;
 - (2) A legal description of all real estate necessary for the project;
 - (3) Plans, drawings and other documents as may be required by the governing body to demonstrate the structure and design of the project;
 - (4) A statement of the reasons for seeking an exemption and/or abatement on the project, and a description of the benefits to be realized by the developer if an exemption and/or abatement is granted;
 - (5) Estimates of the cost of completing the project;
 - (6) A statement showing the real property taxes currently being assessed at the project site; estimated tax payments that would be made annually by the developer on the project during the period of the agreement; and estimated tax payments that would be made by the developer on the project during the first full year following the termination of the agreement;
 - (7) A description of the number and types of dwelling units to be provided; a description of the common elements or general common elements; and a statement of the proposed initial rentals of the dwelling units according to type; and any rental lease or resale restrictions that will apply to dwellings units in regard to low- and moderate-income housing;

(8) Such other pertinent information as the Township Manager may require.

§ 309-15. Consideration and approval.

- A. All exemptions and abatements shall be approved by ordinance of the Township Council authorizing an agreement for tax exemption and/or tax abatement for a project for a period of five years. Notwithstanding § 309-14B above, the Township Council is authorized to waive any of the application requirements set forth herein, if the Township Manager determines that, due to the nature of the project, such information is not available or not necessary to fulfill the purposes of this article. The Township Council may grant such waivers under this section by resolution and such resolution shall be filed with the application.
- B. Distribution of application. Upon receipt of any application, the Assessor shall forward one copy of the application to the Township Manager, one copy to the Planning Director, one copy to the Chief Financial Officer, one copy to the Tax Collector, one copy to the Township Council and two copies to the Township Attorney. The original of the application shall be retained by the Assessor and shall be placed on permanent file within that office.
- C. Development review. Upon receipt of an application, the Planning Director shall conduct a complete review of the proposed project. Such review shall consider the property and suitability of the description(s), plan(s) and estimate(s) submitted, the degree to which the project complies with the Township's developmental goals as expressed in the applicable rehabilitation plan, and the degree of economic necessity for an exemption or abatement. Based on the review, the Planning Director shall submit a recommendation as to the approval or disapproval of the application to the Township Attorney. Such recommendation shall include any changes to the project as may be deemed necessary by the Planning Director, as well as a detailed explanation as to any analysis conducted in arriving at the recommendation.
- D. Financial review.
 - (1) Upon receipt of an application, the Chief Financial Officer shall conduct a financial review of the application, including a cost and benefit analysis of the proposed project. In addition, the Chief Financial Officer shall obtain written verification of the information set forth in the application. This shall be achieved by requests for certifications, which shall include the following:
 - (a) Certification of the Assessor as to the taxes levied on the real property included within the project in both the year in which the application was filed and the immediately preceeding year.
 - (b) Certification of the Tax Collector as to the current status of payments due for property taxes and/or municipal liens of any type arising from real property included within the project.
 - (c) Certification as to the status of payments due for water and/or sewer services provided to the real property.
 - (2) Based upon the review, the Chief Financial Officer shall submit a recommendation as to the approval or disapproval of the application to the Township Attorney. Such recommendation shall include a detailed explanation as to the analysis conducted in arriving at the recommendation.

E. Legal review.

- (1) Based upon receipt of an application, the Township Attorney shall conduct a review as to the form and legality of the application. In addition, the Township Attorney shall obtain written certifications from Township officials as necessary to substantiate the items contained within the application.
- (2) The Township Attorney shall also review those agreements then in force and effect to determine the extent to which each party to the application is a party to any other agreement.
- (3) The Township Attorney shall make a determination as to the propriety of the application. Applications shall be deemed proper in those cases where they are presented in the proper form, satisfy the requirements of this article and all other applicable statutes and ordinances, and for which no delinquency has been found in any of the payments due to the Township as certified by those officials indicated earlier in this section.
- (4) In those cases where an application is deemed proper, the Township Attorney shall prepare an ordinance in the form necessary to authorize the exemption or abatement and shall prepare the form of the agreement to be submitted for consideration by the Township Council. All such agreements shall be in the form filed with the Township Clerk at the time of adoption of this article. The ordinance shall be signed by the Township Attorney as to form and legality and submitted, together with the form of the agreement, the original application, the certifications, and the recommendation of the Chief Financial Officer and the Planning Director, to the Township Manager for his/her consideration.
- (5) In those cases where an application is deemed improper, the Township Attorney shall prepare correspondence outlining those aspects of the application found to be deficient and shall forward that correspondence, together with the original application, the certifications, and the recommendation of the Chief Financial Officer and the Planning Director, to the Township Manager for his consideration.

F. Township Manager review.

- (1) Upon receipt of an application and recommendations from the Township Attorney, the Township Manager shall determine the action to be taken in regard to that application. When the application has been deemed proper by the Township Attorney, the Township Manager shall determine whether to recommend the adoption of the authorizing ordinance and its attachments to the Township Council or to recommend the rejection of the application as not being in the best interests of the Township. Where the application has been deemed improper by the Township Attorney, the Township Manager shall determine whether the deficiencies can be remedied and, if so, may direct the developer and/or the appropriate municipal official as to the actions required. If the deficiencies cannot be remedied or if the application is deemed not in the best interests of the Township, the Township Manager may recommend the rejection of the application without condition.
- (2) In those cases where the Township Manager affords the developer the opportunity to remedy specific deficiencies, the application may be reconsidered after correction by submission to the Assessor of the corrected application, after which the process outlined in this article shall be followed again. No fee shall be charged for consideration of a resubmitted application.
- (3) In those cases where the Township Manager has recommended rejection of an application without condition and where such action has been ratified by the Township Council, the

application may only be reconsidered by reapplication to the Assessor, which application shall be treated in its entirety as a new application, and for which an application fee shall be charged.

- (4) The recommendation of the Township Manager to the Township Council, whether for acceptance or rejection, shall occur within 30 calendar days after the date of the receipt of a complete application.

§ 309-16. Authorization of tax exemption.

Each project which has been approved for an exemption or abatement shall be evidenced by a tax agreement between the Township of Montclair and the developer. The agreement shall be in a form approved by the Township and shall contain the representations that are required by this article, together with such other information required by the Township Attorney, and shall be on file in the office of the Assessor. The agreement shall provide for the developer to make payments to the municipality in lieu of full property tax payments of an annual amount to be computed pursuant to the formula set forth in N.J.S.A. 40A:21-10(c).

- A. Form of agreement. All agreements for an exemption and/or abatement shall be in the form appropriate to the nature of the proposed project. Such agreements shall at a minimum set forth the identification of the affected property, the nature and magnitude of the improvements to be constructed thereon, the consideration to be paid to the Township and the conditions thereon, the duration of the agreement and the grounds for its termination. The agreement shall in all cases further provide that any change made in the ownership of the project or which would materially change the terms of the agreement shall under the agreement be void unless approved by the Township Council by ordinance. Agreements shall require timely payment of all municipal taxes, fees and charges arising out of the agreement or in any way arising out of the affected property. The agreement shall provide that the failure to comply with the payment requirements or with any material condition of the agreement shall permit the Township to unilaterally terminate the agreement and/or to exercise such other remedies as may be provided by statute, this article or the agreement.
- B. Execution of agreement. Upon authorization by the Township Council, it shall be the responsibility of the Township Clerk to insure that the agreement is fully executed. No agreement shall be considered to be in force and effect unless and until it has been signed by the developer and the Mayor, after which it shall be dated and certified by the Township Clerk by her/his signature and the affixing of the Township seal.
- C. Distribution of executed agreements. Once an agreement has been fully executed, the Township Clerk shall be responsible for distributing executed copies thereof to the developer, the Assessor, the Construction Code Official, the Township Manager and the Township Attorney. The Township Clerk shall retain one executed copy which shall be placed on permanent file within her/his office, where it shall be available for examination by the public during regular business hours. Additionally, the Township Clerk shall also file a copy with the Director of the Division of Local Government Services within the New Jersey Department of Community Affairs.

§ 309-17. Administration agreements after construction.

After the completion of construction and the issuance of a final certificate of occupancy, the project shall be maintained and operated consistent with the terms of the agreement until its termination. Throughout the term of the agreement it shall be administered according to the procedures set forth as follows:

- A. Billing and payment in lieu of taxes.

- (1) Throughout the term of the agreement, the Tax Collector shall bill the developer each quarter. Such bills shall reflect the payments in lieu of taxes required under the agreement.
 - (2) Regardless of the date of issuance, all such bills shall be deemed to have been issued on the first day of each calendar quarter and to be due and payable within 30 calendar days thereafter.
 - (3) All payments due to the Township arising out of the agreement which are not paid as of the date due shall be subject to the same charges for penalties and interest as arrears then in effect for nonpayment of property taxes.
 - (4) The Tax Collector shall accept all payments made pursuant to such billings and shall maintain books of account as to each agreement. Except as otherwise required by law, the Tax Collector shall apply payments received to amounts due in the following order: amounts due for penalties and interest for payments in lieu of taxes; then, amounts due for the principal of payments in lieu of taxes. The developer shall be responsible to make timely payments directly to the Tax Collector.
- B. Annual audits. Where required by law or where required by the agreement, the developer shall submit an annual audit prepared by a certified public accountant of the financial performance of the project. Such audit shall be submitted each year within 90 days after the end of the fiscal year of the project to the Assessor with a simultaneous copy to the Township Clerk for archival purposes. The Assessor shall review each audit upon submission and make a determination as to any adjustment required in the payment in lieu of taxes.
- C. Noncompliance. During the term of the agreement, if the developer fails to comply with the requirements for submission of audits and/or timely payments of amounts due, the Tax Collector shall be responsible for enforcing the terms of the agreement through the following procedure. Such procedure shall not be the sole remedy permitted to the Township, but rather shall be used in addition to such other remedies as may be permitted under law and by the terms of the agreement.
- (1) In the case where any payment due to the Township pursuant to the agreement, whether arising from property taxes or payments in lieu of taxes, is in arrears for a period of six months or more, the Tax Collector shall notify the developer that, unless the total amount due including penalties and interest and subsequent charges are brought to a current status within a period of 30 days from the date of the notification, the agreement shall be rescinded. If the developer fails to comply with such notice, the Tax Collector shall make recommendation to the Township Attorney.
 - (2) In the event of any nonpayment as outlined above, in addition to the remedies outlined therein, the developer in signing the agreement agrees that the Township shall have the same rights of liens and foreclosure against the project as though the nonpayment was for property taxes. The Township may exercise such rights by following the same steps as set forth in law for the collection of delinquent property taxes.
 - (3) In the case where any audit required to be submitted pursuant to the agreement is delinquent for a period of three months or more from the date due, the Assessor shall notify the developer that unless the audit is submitted in proper form within 30 days from the date of notification, the agreement shall be rescinded. If the developer fails to comply with the requirements of the notice, the Assessor shall recommend the Township Attorney prepare an ordinance rescinding the agreement, and after its adoption shall thereafter treat the project as fully taxable.

§ 309-18. Real property taxes.

In addition to the payments required in lieu of property taxes pursuant to § 309-17 of this article, the developer or owner of property which has qualified for an exemption and/or abatement shall be liable for all real estate taxes assessed and levied against the land on which the exempt and/or abated improvements are located.

§ 309-19. Tax delinquency.

No exemption and/or abatement shall be granted pursuant to this article with respect to any property for which real estate taxes or other municipal charges are delinquent or remain unpaid, or for which penalties and interest for nonpayment of taxes are due.

§ 309-20. Payment in quarterly installment and termination.

The payment in lieu of property taxes shall be made in quarterly installments according to the same schedule as real property taxes are due and payable. Failure to make these payments shall result in the termination of the exemption and/or abatement. In addition to the remedy set forth herein, the payment authorized by § 309-17 of this article shall be enforced in the same manner as is provided for in real property taxes.

§ 309-21. Property taxes subject to exemption.

The exemption and abatement of real property taxes provided pursuant to this article shall apply to property taxes levied for municipal purposes, school purposes, county/government purposes, and for the purposes of funding any other property tax exemptions or abatements.

§ 309-22. Conformance with statutory and regulatory requirements.

All projects subject to tax agreements as provided herein shall be subject to all applicable federal, state and local laws and regulations on pollution control, worker safety, discrimination in employment, housing provision, zoning, planning and building code requirements.

§ 309-23. Prohibition against added and omitted assessment.

The added assessment provisions of Section 3 of P.L. 1941, c. 397 (c. 54:4-63.3) and the omitted assessment provisions of Section 9 P.L. 1947, c. 413 (c. 54:4-63.20) and Section 1 of P.L. 1968, c. 184 (c. 54:63-33) shall not be applicable to any improvements that are exempt from taxation under this article.

§ 309-24. Inspection.

Any property which is granted an exemption and/or abatement pursuant to this article shall be subject to an inspection by the Township on an annual basis to ensure that the property is in compliance with all ordinances, regulations, and safety codes of the Township. Any property which is determined to be in violation of any ordinance, regulation, and/or safety code of the Township shall be subject to any penalties and fines or any other remedial action permitted by state law.

§ 309-25. Severability.

If any provision of this article is legally invalid or is hereafter found to be legally invalid, the remainder of the article shall remain in full force and effect.

§ 309-26. Nonlimitation.

Nothing contained in this article shall be so construed as to limit or deprive the Township of any rights or privileges which are now or in the future conferred on the Township by state law or federal statute.

§ 309-27. Repeal.

All prior ordinances or parts of prior ordinances inconsistent herewith are hereby repealed.

§ 309-28. Effective date.

This article shall take effect upon final passage and publication and in accordance with the laws of the state.

ARTICLE V

Hotel and Motel Occupancy Tax**[Adopted 3-10-2015 by Ord. No. O-15-007]****§ 309-29. Purpose.**

It is the purpose of this article to implement the provision of P.L. 2003, c. 114,¹⁷² which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed 3% on charges of rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to Subsection (d) of § 3 of P.L. 1966, c. 40 (N.J.S.A. 54:32B-3) which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

§ 309-30. Tax established.

There is hereby established a hotel and motel room occupancy tax in the Township of Montclair which shall be fixed at a uniform percentage rate of 3% on charges of rent for every occupancy of a room in the Township of Montclair in a hotel or motel subject to taxation pursuant to Subsection (d) of § 3 of P.L. 1966, c. 40, N.J.S.A. 54:32B-3 (sales tax).

§ 309-31. Additional tax.

The hotel and motel room occupancy tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

§ 309-32. Exemption.

The hotel and motel room occupancy tax authorized herein shall not be imposed on the rent for an occupancy if the purchaser, user or consumer is an entity exempt from the tax imposed on an occupancy under the Sales and Use Tax Act pursuant to Subsection (a) of § 9 of P.L. 1966, c. 30 (N.J.S.A. 54:32B-9).

§ 309-33. Administration of tax.

The hotel and motel room occupancy tax shall be administered in conformance with the requirements of P.L. 2003, c. 114:¹⁷³

- A. All taxes imposed by this article shall be paid by the purchaser.
- B. A hotel or motel establishment (hereinafter "vendor") shall not assume or absorb any tax imposed by this article.
- C. A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.
- D. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation or advertisement by a vendor for each day that the representation or advertisement continues shall be deemed a separate offense.

¹⁷²Editor's Note: See N.J.S.A. 54:32D-1 et seq.

¹⁷³Editor's Note: See N.J.S.A. 54:32D-1 et seq.

E. The penalty for violation of the foregoing provisions shall be up to \$1,500 for each offense.

§ 309-34. Collection of hotel and motel tax.

The tax imposed by this article shall be collected on behalf of the Township by the person collecting the rent from the hotel or motel customer. Each person required to collect the tax herein imposed shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time, provided that the Chief Financial Officer of the Township shall be joined as a party in any action or proceeding brought to collect the tax.

§ 309-35. Forwarding hotel and motel tax to Division of Taxation; making and filing return.

- A. Every person required to collect the hotel and motel tax shall, on or before the 28th day of each month, forward to the Director of the Division of Taxation in the New Jersey Department of the Treasury (Director) the hotel and motel tax collected in the preceding month and make and file a return for the preceding month with the Director.
- B. The return shall be filed on such form and containing such information as the Director shall prescribe as necessary. The Director may permit or require returns to be made covering other periods and upon any dates as the Director may specify. Additionally, the Director may require payments of tax liability at any intervals and based upon any classifications as the Director may designate.

ARTICLE VI

**Cancellation of Property Taxes for Disabled Veterans
[Adopted 7-24-2018 by Ord. No. O-18-033]****§ 309-36. Definitions.**

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

APPLICATION — The information required to be submitted by a veteran or the veteran's surviving spouse seeking a property tax exemption, and conforming to the requirements of N.J.S.A. 54:4-3.31.

PROPERTY — The real property and the improvements subject to an exemption.

TAX ASSESSOR — The Tax Assessor of the Township.

TAX COLLECTOR — The Tax Collector of the Township.

TOWNSHIP — The Township of Montclair, in the County of Essex, New Jersey.

§ 309-37. Authorization of tax exemption for veterans determined to be totally disabled.

The Township shall provide for tax exemptions as set forth in N.J.S.A. 54:4-3.30.

§ 309-38. Refund of property taxes for veterans determined to be totally disabled. [Amended 5-6-2025 by Ord. No. O-25-14]

- A. For a veteran, or his or her surviving spouse or domestic partner, entitled to exemption under N.J.S.A. 54:4-3.30, after a formal written request for a retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3.31, submitted to the Tax Assessor with all required documentation from the United States Veterans Administration, the Township Council, by appropriate resolution, shall return to the veteran or the veteran's surviving spouse all property tax payments made since the date the application was filed with the Tax Assessor. Retroactive refunds shall only be granted for property taxes paid after the date that a valid application is filed with the Tax Assessor, reviewed by the Tax Assessor and deemed complete.
- B. Retroactive refunds shall not be granted for property taxes paid prior to the date that a valid application is filed with the Tax Assessor and reviewed and deemed complete by the Tax Assessor.

ARTICLE VII

Cannabis Tax**[Adopted 8-10-2021 by Ord. No. O-21-19]****§ 309-39. Enabling legislation.**

The taxes imposed by this article are authorized by N.J.S.A. 40:48I-1. In the event of any inconsistency between this article and N.J.S.A. 40:48I-1, the statute shall govern.

§ 309-40. Transfer tax imposed.

There is hereby established a tax on the receipts of each sale by a cannabis establishment located in the Township holding a municipal license issued pursuant to Montclair Code Chapter 110 to be applied to gross sales receipts from all transactions by each of the following licensees in the percentage amount specified:

- A. Category F/Class 1 Cannabis Cultivator: 2%.
- B. Category E/Class 2 Cannabis Manufacturer: 2%.
- C. Category C/Class 3 Cannabis Wholesaler: 1%.
- D. Category A/Class 5 Cannabis Retailer: 2%.

§ 309-41. User tax imposed.

There is hereby established a user tax on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to § 309-39 of this article from the license holder's establishment that is located in the municipality to any of the other license holder's establishments, whether located in the municipality or another municipality.

§ 309-42. Collection of tax.

The tax imposed by this article shall be collected on behalf of the Township by the licensee. Each person required to collect the tax herein imposed shall be personally liable for the tax imposed, collected or required to be collected hereunder.

§ 309-43. Administration of tax.

The licensee shall remit the taxes collected pursuant to this article on a quarterly basis to the Collector of Taxes, together with a statement on a form prescribed by the Chief Financial Officer showing gross receipts and taxes collected. Payments shall be due no later than April 10, July 10, October 10 and January 10, or, if that date is a Saturday, Sunday or holiday, on the next business day.

§ 309-44. Enforcement.

Late payment or nonpayment of the transfer or user tax imposed by this article shall be subject to interest, penalties, and liens in the same manner and amount as all other unpaid municipal taxes, fees or other charges, and delinquent payment shall be enforced, to the fullest extent authorized by N.J.S.A. 40:48I-1c(1) and (2).

TAXICABS AND LIVERIES

Chapter 313

TAXICABS AND LIVERIES

[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. 205 of the 1979 Code; amended in its entirety 4-24-2001 by Ord. No. 01-17. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 327.

ARTICLE I
Definitions

§ 313-1. Terms defined.

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

CHIEF OF POLICE — The Chief of Police of the Township of Montclair.

LIVERY — Any automobile, limousine or motorcar, other than a bus or taxicab, which is engaged in the business of transporting passengers for hire, other than in the conduct of a funeral, and operates out of closed premises, and which is hired by charter or for a particular contract or by the day or hour or other fixed period, or charges a fare or price agreed upon in advance between the operator and the passenger.

MANAGER — The Township Manager of the Township of Montclair.

TAXICAB — Any automobile or motorcar, other than a bus or livery or limousine, which is engaged in the business of transporting passengers for hire.

ARTICLE II
Powers of Township Manager

§ 313-2. Enumeration of powers.

The Manager shall have charge of and shall control the examination of applicants for licenses for taxicabs, liveries, limousines and drivers thereof; the licensing, regulation and inspection of taxicabs, limousines and liveries; the licensing of drivers; and the enforcement of all the provisions of this chapter. The Manager shall have the power to approve, deny, suspend or revoke any taxicab, limousine or livery license or the licenses of drivers of taxicabs, limousines or liveries, for cause, as hereinafter provided. The powers conferred on the Municipal Clerk by this chapter shall be exercised under the control of the Manager.

ARTICLE III
Licensing of Vehicles

§ 313-3. License required.

No person shall hire out or keep or use for hire or pay, or cause to be kept or used for hire or pay, any taxicab, limousine or livery without first having obtained a license for that purpose from the Municipal Clerk. A separate license shall be required for each taxicab, limousine or livery.

§ 313-4. Application for license.

- A. Each application for a taxicab, limousine or livery license shall be in writing and filed with the Municipal Clerk, in duplicate, on forms provided by the Police Department. The application shall contain:
- (1) The name and address of the owner.
 - (2) The name and address of the lessee, if any.
 - (3) The business or trade name, if any, under which the owner or lessee will operate the taxicab, limousine or livery.
 - (4) The serial number, make, model, year and color of the taxicab, limousine or livery.
 - (5) The automobile registration number issued for said vehicle by the New Jersey Division of Motor Vehicles.
 - (6) The maximum number of persons it is to carry.
- B. In the event that, after the filing of said application and before the expiration of the license issued thereunder, any change in circumstances shall occur with respect to any information submitted on the application, the applicant shall, no later than 10 days following the occurrence of such change, give written notice thereof to the Municipal Clerk, indicating the nature thereof and the manner in which the information set forth on the original application should be amended, modified or corrected to conform to such change in circumstances.

§ 313-5. Insurance.

No taxicab, limousine or livery shall be licensed until a policy of insurance shall have been filed with the Municipal Clerk in accordance with the provisions of N.J.S.A. 48:16-1 to 48:16-22, inclusive, as now or hereafter amended or supplemented. Such policy of insurance shall not be filed unless it is approved by the Law Department of the Township.

§ 313-6. Inspection before licensing; emergency equipment.

No taxicab, limousine or livery license shall be approved or issued until the vehicle has been thoroughly inspected and found to be in a clean and sanitary condition and mechanically safe for the transportation of passengers, to be evidenced by a current inspection sticker issued by the New Jersey Division of Motor Vehicles. Each vehicle shall also contain a first aid kit, fire extinguisher and some sort of equipment allowing for emergency contact.

§ 313-7. Identification on taxicabs; taximeters.

No taxicab license shall be approved or issued until the taxicab has been inspected in the manner provided in § 313-6 and is found to meet the following requirements:

- A. There shall be displayed on the exterior of the two front doors of each taxicab the name or trade name of the owner. The height of the lettering shall be at least three inches. Each taxicab shall be equipped with a dome light on the roof of each vehicle, and said light shall be in working order. No taxicab shall bear a name, monogram, insignia or color scheme in conflict with the name, monogram, insignia or color scheme used by any other person licensed hereunder in such a manner as to mislead or deceive the public. Taxicabs operated by one owner must be identical in color.
- B. The taximeter of every taxicab operating on a meter shall be in proper condition and accurate. The face of the taximeter shall be illuminated by suitable light after sundown. No taximeter shall be approved unless the case thereof is sealed and gears are enclosed. All taxicabs acquired after the effective date of this amendment must be equipped with a taximeter.

§ 313-8. Issuance of licenses; form.

Licenses for taxicabs, limousines and liveries shall be issued by the Municipal Clerk and shall be signed by him or her, in the name of the Township.

§ 313-9. Taxicab license cards and medallions. [Amended 3-8-2011 by Ord. No. O-11-007]

Upon issuance of a taxicab license, the Municipal Clerk shall issue to the licensee a card containing the name of the owner, the license number of the vehicle, year of issue and the rates of fare as provided in § 313-27 hereof. The card shall be inserted in a card rack or frame provided by the owner and attached on the inside of the taxicab on the front dashboard. Each taxicab is also required to carry a medallion issued by the Police Department bearing the name of the Township, expiration date of license, and taxi medallion number to be affixed to the hood of each taxi vehicle. Medallions will be bolted to the vehicle by representatives of the Montclair Police Department; however, the taxi owner is required to provide the necessary hole to mount the medallion. Once mounted on the vehicle, the medallion can only be removed by a representative of the Montclair Police Department. Medallions are transferable only with the consent and approval of the Chief of Police and Township Manager and may only be transferred together with the taxi license. Medallions are issued for a period of one year concurrent with the taxi license required by § 313-3.

§ 313-10. Livery and limousine license cards.

Upon issuance of a livery or limousine license, the Municipal Clerk shall issue to the licensee a card containing the name of the owner or lessee, the license number of the vehicle and year of issue. The card shall remain in the livery or limousine for which issued. It shall be exhibited by the owner or lessee or driver thereof upon request.

§ 313-11. Duration of license. [Amended 3-8-2011 by Ord. No. O-11-007]

All taxicab, limousine and livery licenses shall expire April 30 and must be renewed by May 1 next succeeding the date thereof, unless sooner suspended or revoked. Any application filed for renewal after May 15 will be subject to a renewal assessment of \$500 per vehicle.

§ 313-12. Transfer of license restricted.

Each taxicab, limousine or livery license shall apply only to the person to whom granted and shall not be transferable to any other persons. With the approval of the Chief of Police, the holder of a taxicab, limousine or livery license applicable to a particular taxicab, limousine or livery may transfer the same to another taxicab, limousine or livery owned or leased by him or her upon payment of a transfer fee of \$15.

§ 313-13. Number of taxicab, livery and limousine licenses.

- A. The number of taxicab licenses and medallions outstanding shall not at any time exceed 45. The number of livery and limousine licenses outstanding shall not at any time exceed 50. **[Amended 3-8-2011 by Ord. No. O-11-007]**
- B. Nothing contained in this section shall prevent the renewal of licenses in existence on the effective date of this section. For the purpose of this section, any license for a new license term which is issued to replace a license which expired on the last day of the license term immediately preceding the commencement of the new license term, or which is issued to replace a license which will expire on the last day of the license term immediately preceding the commencement of said new license term, shall be deemed to be a renewal of the expired or expiring license; provided, however, that said new license is of the same type as the expired or expiring license, is issued to the holder of the expired or expiring license and is issued pursuant to an application therefor which shall have been filed prior to the expiration of the expiring license. Licenses issued otherwise than herein provided shall be deemed to be new licenses.

§ 313-14. License and medallion fees. [Amended 7-7-2009 by Ord. No. O-032-09; 3-8-2011 by Ord. No. O-11-007]

The license and medallion fee for each taxicab shall be \$150. The license fee for limousines and livery cars shall be \$150. For licenses issued after November 1 of each year, the fee shall be \$80.

ARTICLE IV
Licensing of Drivers

§ 313-15. License required.

No taxicab, limousine or livery licensed under this chapter shall be operated on the streets of the Township except by a driver who shall have first obtained a license for that purpose from the Municipal Clerk.

§ 313-16. License application; qualifications of applicant.

All applications for drivers' licenses shall be in writing and shall be filed with the Municipal Clerk, in duplicate, on forms provided by the Police Department. No person shall be licensed as a driver under this chapter unless he or she:

- A. Furnishes with his or her application three copies of a recent photograph of himself or herself, of a size not less than 1 3/4 inches in length and 1 1/4 inches in width, and the certificate of a reputable physician certifying that the applicant has been examined within the preceding 60 days and that he or she has no infirmity of body or mind which might render him or her unfit for the safe operation of a taxicab or livery.
- B. Is at least 18 years of age.
- C. Is a holder of a New Jersey auto driver's license.
- D. Is able to understand, read and write the English language.
- E. Is possessed of a satisfactory knowledge of traffic regulations and of the geography of the Township.
- F. Is of good character.
- G. Is not addicted to the use of drugs or intoxicating liquors.
- H. Is not an habitual violator of the Motor Vehicle Act.
- I. Has not been convicted of an indictable offense or any criminal offense involving moral turpitude.
- J. Pays all required fees required by this chapter.

§ 313-17. Credential check.

Before issuance of a driver's license, an applicant shall be subject to a name and credential check by the Police Department.

§ 313-18. Drivers' licenses.

Licenses issued to drivers shall be of one type. They shall permit the operation by the licensed driver of either a taxicab, limousine or livery.

§ 313-19. Issuance of license and card.

Upon approval of the application for license and payment of the license fee hereinafter provided, the Municipal Clerk shall issue a license in the name of the Township. The Municipal Clerk shall issue to the licensee an identification card. The card shall contain the name of the licensee, a straight-view photograph of the licensee and the Township license number of the licensee.

§ 313-20. Display of card.

While engaged as a taxicab driver, the licensee shall insert his or her license identification in a card rack or frame provided by the owners and attached on the back of the front seat in a place readily visible to a passenger. The driver of any taxicab shall be responsible for keeping his or her identification card in the taxicab operated by him or her at the time. While engaged as a livery or limousine driver, the licensee shall have his or her identification card in his or her possession and shall exhibit it upon request.

§ 313-21. Duration of license.

All drivers' licenses issued pursuant to this chapter shall expire May 1 next succeeding the date thereof; unless sooner suspended or revoked.

§ 313-22. License fee.

The fee for a driver's license shall be \$40.

ARTICLE V
Regulation of Vehicles and Drivers

§ 313-23. Sanitation and safety of vehicles; inspections.

Licensed taxicabs, limousines and liveries may be inspected and reinspected at any time for cleanliness, sanitary condition, mechanical safety for the transportation of passengers and general safety and fitness for public patronage. Such inspections shall be made and records thereof shall be kept by the Police Department.

§ 313-24. Inspection of taximeters.

Taximeters may be inspected at any time, in the manner provided in § 313-6, to determine whether they are in proper condition and accurate as provided in § 313-7B.

§ 313-25. Alteration of name, insignia or color of taxicab.

The name, monogram, insignia or color scheme of a licensed taxicab shall not be changed after the issuance of a license therefor so as to be in conflict with the name, monogram, insignia or color scheme used by any other licensee.

§ 313-26. Change of address of owners and drivers.

Any change of address of the owner of any taxicab, limousine or livery or of any driver, occurring after the issuance of a license under this chapter, shall be reported by said licensee to the Municipal Clerk, in writing, within three days after such change. The Municipal Clerk shall immediately report such change of address to the Chief of Police.

§ 313-27. Taxicab rates of fare.

The prices or fares that may be charged by the owner or driver of any taxicab for any trip originating within the Township shall not exceed the following rates:

Type	Rate
For the first 1/2 mile or fraction thereof	\$1.60
For each 1/8 of a mile thereafter	\$0.30
For each 2 minutes' waiting time	\$0.30
For each additional passenger per trip to same destination	\$0.45
Maximum mileage charge for any trip within the Township	\$10.00

§ 313-28. Record of taxicab passenger trips.

Every licensed taxicab driver shall record in writing the time and place each passenger is accepted and the time and place of discharge of the passenger. Such records shall be kept intact for one year from the date thereof. Such records shall be kept open for inspection at all times during the one-year period by a duly authorized representative of the Police Department.

§ 313-29. Cruising of taxicabs.

No driver of any licensed taxicab in soliciting employment shall so operate a taxicab as to interfere with or impede unnecessarily the movement of other vehicles or pedestrians. Employment may be solicited by driving through any public street or place at a rate of speed that will not interfere with or impede traffic. No passenger shall be solicited unless within six feet of a taxicab.

§ 313-30. Loading and discharge of taxicab passengers.

No taxicab passenger shall be accepted or discharged on a public street except at the curb.

§ 313-31. Parking and taxicab stand regulations.

No licensed taxicab may park in any public street or public place in the Township except in such place or places as may be designated by ordinance, resolution or regulation adopted in accordance with law. Only such taxicabs as are for hire may remain at designated taxicab stands while waiting for employment. After the first taxicab in line leaves the stand, those behind shall move up. Any other taxicab seeking parking space in such stand shall approach it only from the rear thereof.

§ 313-32. Acceptance of passengers; collection of fares; shared rides.

The driver of any licensed taxicab shall have the authority to demand payment of legal fare in advance and may refuse employment unless such fare is so prepaid, but no driver of a taxicab shall otherwise refuse employment by an orderly person for transportation anywhere in the Township. No driver of a taxicab shall carry any person other than the first passenger employing him or her without the consent of the first passenger.

§ 313-33. Misleading passengers; direct routes.

No owner or driver of any licensed taxicab, limousine or livery shall induce any person to employ him or her by knowingly misinforming or misleading such person. No driver shall convey any passenger to any place or by any route other than the most direct route, unless otherwise directed by said passenger.

§ 313-34. Solicitation of passengers by liveries and limousines.

No owner or driver of any licensed livery or limousine may solicit patronage in any public street or public place in the Township.

§ 313-35. Lost or abandoned property in vehicles.

The driver of any licensed taxicab, limousine or livery, immediately after the termination of any hiring or employment, shall carefully search his or her taxicab or livery for any property lost or abandoned therein. Such property, unless sooner claimed or delivered to the owner, shall be reported in writing by the driver or by the owner of the taxicab, limousine or livery to the Police Department, giving particulars and a brief description of said property, within 24 hours after the finding of the same. All such property not claimed within said twenty-four-hour period shall be turned over by such driver or owner of a taxicab, limousine or livery to the Property Clerk of the Police Department.

§ 313-36. Private use of licensed vehicles.

Nothing contained in this chapter shall prohibit the use of a taxicab, limousine or livery for private

purposes, provided that there is no solicitation of patronage.

§ 313-37. Illegal or immoral conduct.

- A. No licensed driver shall commit an act or acts which would disqualify him or her for a driver's license under Subsections G, H or I of § 313-16 (drug or liquor addiction, habitual violation of the Motor Vehicle Act, conviction of an indictable offense or conviction of any criminal offense involving moral turpitude) or shall permit a taxicab or livery driven by him or her to be used for any illegal or immoral purpose.
- B. No owner of a licensed taxicab, limousine or livery shall permit the use of such taxicab, limousine or livery for illegal or immoral purposes.

ARTICLE VI
Suspension or Revocation of License

§ 313-38. Taxicabs.

The license of any taxicab issued pursuant to this chapter may be suspended or revoked by the Manager for any of the following causes:

- A. A violation of any provision of this chapter, a violation of any provision of any other ordinance of the Township of Montclair or a violation of any of the laws of the State of New Jersey.
- B. The falsification of any information contained in the application for a license.
- C. Permitting or suffering any taxicab to be used for any illegal or immoral purpose or purposes.
- D. If the vehicle is found to be unsafe or unfit for public patronage.
- E. If inspection discloses that the taximeter is not in proper working condition or is operating inaccurately.

§ 313-39. Livery and limousine vehicles.

The license of any livery or limousine may be suspended or revoked by the Manager for any of the following causes:

- A. A violation of any provision of this chapter, a violation of any provision of any other ordinance of the Township of Montclair or a violation of any of the laws of the State of New Jersey.
- B. The falsification of any information contained in the application for a license.
- C. Permitting or suffering any livery or limousine to be used for any illegal or immoral purpose or purposes.
- D. If the vehicle is found to be unsafe or unfit for public patronage.

§ 313-40. Driver's license.

The license of any driver may be suspended or revoked by the Manager for any of the following causes:

- A. A violation of any of the provisions of this chapter, a violation of any provisions of any other ordinance of the Township of Montclair or a violation of any of the laws of the State of New Jersey.
- B. Falsification of any information contained in the application for a driver's license under this chapter.
- C. Permitting or suffering a taxicab, limousine or livery operated by him or her to be used for any illegal or immoral purpose or purposes.

§ 313-41. Procedure.

- A. No license issued pursuant to this chapter shall be revoked except after due notice and opportunity for a hearing. Pending such hearing, licenses may be suspended.
- B. Whenever any license issued pursuant to this chapter has been suspended, it shall be forthwith surrendered to the Municipal Clerk and held by him or her until the expiration of the period of

suspension; and whenever any license issued pursuant to this chapter shall be revoked, said license shall be forthwith surrendered to the Municipal Clerk, who shall cancel the same.

ARTICLE VII

Penalties**§ 313-42. Violations and penalties.**

- A. 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. **[Amended 4-10-2007 by Ord. No. 07-17]**
- B. The penalty provided for in this section shall be deemed in addition to the provisions for suspension and revocation of licenses set forth in § 313-38 to 313-41, both inclusive.

Chapter 317**TELEPHONES, PAY**

[HISTORY: Adopted by the Council of the Township of Montclair 1-26-1993 by Ord. No. 93-1 (Art. XV of Ch. 88 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Location of telephone booths on cafe plan — See Ch. 276.

Obstruction of required pedestrian passageway — See Ch. 297, Art. VI.

§ 317-1. Definitions.

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

DISTRIBUTOR — Any person responsible for placing and maintaining a pay telephone in a public way hereinafter defined.

ILLEGAL OR ILLICIT ACTIVITY — Activity which is proscribed by N.J.S.A. 2C:1-1 et seq. or any Township ordinance or any federal law or regulation.

PAY TELEPHONE — Any self-service or coin- or credit-card-operated telephone.

PERSON — An individual, business, firm, corporation, association, partnership or other organization or group of persons.

SIDEWALK — Any surface provided for the use of pedestrians.

STREET — All that area dedicated to public use for public street purposes and shall include but not be limited to roadways, parkways, alleys and sidewalks.

TOWNSHIP — The Township of Montclair.

§ 317-2. Permit required; fees; indemnity and insurance.

- A. No person, association, partnership or corporation may place or maintain any pay telephone on or above any public street or sidewalk without having first obtained a permit as provided in this chapter. Permits shall be issued by the Director of Community Services and shall be subject to approval of the location and means of installation of the telephone in accordance with the standards set forth in § 317-5 of this chapter. The permit required by this chapter shall be in addition to any permit required pursuant to the Uniform Construction Code, N.J.S.A. 52:27d-119 et seq., or any street occupancy or opening permit required by any other Township ordinance. **[Amended 6-15-2004 by Ord. No. 04-34]**
- B. Before installation, a plan or sketch of the telephone shall be furnished to the Director of Community Services in sufficient detail to describe size, location, equipment and means of installation and cabling. A copy of the permit or the permit number shall be affixed to the telephone. **[Amended 6-15-2004 by Ord. No. 04-34]**
- C. The initial fee for a permit shall be \$25 per year or any part of a year and the fee for a renewal permit shall be \$10 per year; provided, however, that no fee shall be charged for telephones furnished by the

Township of Montclair as an accommodation to the public or for permits issued to any person or entity which pays a franchise fee or tax for the use of public facilities. Such person or entity shall not, however, be exempt from the regulatory provisions of this chapter. Permits shall be renewable annually on January 1 of each year.

- D. The Director of Community Services shall be informed of the intent of any person to remove or relocate a telephone. **[Amended 6-15-2004 by Ord. No. 04-34]**
- E. Before receiving a permit, an applicant shall:
 - (1) Execute an indemnification agreement substantially as follows: The applicant and any other persons on whose behalf the application is made agree to defend, indemnify and hold harmless the Township of Montclair against liability for all claims for damage to property or injury to or death of persons arising out of or resulting from the issuance of the permit or the control, maintenance or ownership or use of each pay telephone.
 - (2) File with the Department of Community Services a general liability insurance policy of \$1,000,000 for bodily injury and \$50,000 for property damage naming the Township as additional insured against any injury, loss or damage that may result from placing or maintaining the telephone or telephone equipment on or above any public street or sidewalk. **[Amended 6-15-2004 by Ord. No. 04-34]**
- F. The permit fees set forth herein shall not apply to any public telephone installation subject to an agreement with the Township of Montclair providing for the payment of any annual commission and a franchise tax to the Township of Montclair, except that such public telephone installations shall be subject the Township's right to require the following:
 - (1) The removal of an outdoor telephone or the revocation of a permit; or
 - (2) The restriction or limitation upon service to permit outgoing calls only if a public telephone has the potential to or has illustrated a propensity to create or contribute to illegal or illicit activity. A presumption of illegal or illicit activity will be created if during the permit year five incidents of illegal or illicit activities are associated with the location or the proposed location of the public telephone.

§ 317-3. Emergency calls; rates to be posted.

- A. All public telephones shall possess 911 emergency number access. Telephones shall permit the following calls to be placed without charge:
 - (1) Calls to an emergency number.
 - (2) Emergency calls placed through operator assistance to the Police and Fire Departments.
 - (3) Calls placed through operator assistance to Police and Fire Departments by anyone identified as a member of either Department.
- B. Current telephone rates shall be posted on the telephone or on the telephone booth.

§ 317-4. Maintenance and installation standards.

Telephones shall comply with the following standards:

- A. No booth surrounding a telephone shall exceed eight feet in height, four feet in width or four feet in

depth.

- B. Each telephone shall be equipped with a coin return mechanism to permit a person using the machine to secure an immediate refund if a call cannot be placed. The coin return mechanism shall be maintained in good working order.
- C. Each telephone shall have affixed to it, in a place visible to everyone using the telephone, a telephone number of the distributor and the telephone number of a working telephone service to report a malfunction, to secure a refund or to give the notices provided for in this chapter.
- D. Telephones shall be maintained in a neat and clean condition and in good repair at all times. Without limiting the generality of the foregoing, a telephone shall be served and maintained so that:
 - (1) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.
 - (2) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon.
 - (3) Any clear plastic or glass parts are unbroken and reasonably free of cracks, dents, graffiti, blemishes and discolorations.
 - (4) Any paper or cardboard parts or inserts are reasonably free of tears, peeling or fading.
 - (5) The structural parts thereof are not broken or unduly misshapen.
 - (6) The telephone receiver is attached to the telephone.
- E. Any owner or permittee who fails to maintain his, her or its telephone in working condition may be given a ten-day notice to repair the telephone by the Director of Community Services. If the telephone is not in working condition at the end of the ten-day period, the Director of Community Services may revoke the permit unless the permittee provides assurance that the telephone shall be repaired or removed. **[Amended 6-15-2004 by Ord. No. 04-34]**
- F. Each telephone shall provide a local directory or information assistance without charge, provided that the distributor is not charged for such call by the local telephone company.
- G. Each telephone shall, upon written request of the Director of Community Services, be capable of being restricted to outgoing calls only within 10 days of the request as provided for herein. **[Amended 6-15-2004 by Ord. No. 04-34]**

§ 317-5. Placement.

- A. No telephone shall be permitted to rest upon, in or over any public street or sidewalk when such installation, use or maintenance:
 - (1) Endangers the safety of persons or property;
 - (2) Unreasonably interferes with or impedes the flow of pedestrians or vehicular traffic, including any legally parked or stopped vehicles;
 - (3) Unreasonably interferes with the ingress or egress from any residence or place of business; or
 - (4) Interferes with the use of traffic signs or signals, hydrants or mailboxes permitted at or near said location.

- B. Telephones shall be placed or otherwise secured so as to prevent their being blown down or around the public street or sidewalk but shall not be chained or otherwise secured to any traffic or street signs, signals, hydrants or mailboxes.
- C. No telephones shall be placed, installed, used or maintained:
- (1) Within any marked crosswalk.
 - (2) Within three feet of a curb return of any unmarked crosswalk.
 - (3) Within 15 feet of any fire hydrant, fire call box, police call box or other emergency facility.
 - (4) Within five feet of any driveway.
 - (5) Within three feet of any public area improved with a lawn, flowers, shrubs, trees or other landscaping.
 - (6) At any location whereby the clear space for the passageway of pedestrians is reduced to less than six feet.
 - (7) Within three feet of any building unless written permission is secured from the property owner and filed with the application.
 - (8) Within 10 feet of any entrance to a residence, store or public building.
- D. In the event that a particular pay telephone does not fully meet the requirements set forth herein, the Director of Community Services shall have the discretion to grant a permit upon a showing that the issuance of such a permit is reasonable in accordance with the provisions of this section and other provisions of this chapter. **[Amended 6-15-2004 by Ord. No. 04-34]**
- E. The Township of Montclair may also consider in applications for permits and/or require in its consent any of the following: the removal of an outdoor telephone, the revocation of a permit or the restriction or limitation upon service to permit outgoing calls only if a public telephone or the proposed location has the potential to or has illustrated a propensity to create or contribute to illegal or illicit activity. A presumption of illegal or illicit activity will be created if during the permit year five incidents of illegal or illicit activities are associated with the location or the proposed location of the public telephone.
- F. No telephone or telecommunication device shall be placed on the sidewalk within 600 feet of any other pay telephone or telecommunication device on a sidewalk in any residential district or publicly zoned district as these districts are described in Chapter 347, Zoning, of the Code of the Township of Montclair.
- G. No telephone or telecommunication device shall be placed on the sidewalk closer than 200 feet to any other pay telephone or telecommunication device in any business district or any industrial district of the Township.
- H. In the event that an operator wishes to place more than one phone in a given location, in addition to the plan or sketch as required in § 317-2B of this chapter, he or she shall submit economic or demographic data to support the need for the number of phones proposed. The Director of Community Services shall review this data and, after consultation with the Department of Police, shall have the discretion to allow more than one phone to be placed or maintained in the proposed location. **[Amended 6-15-2004 by Ord. No. 04-34]**

§ 317-6. Complaints; revocation of permit. [Amended 6-15-2004 by Ord. No. 04-34]

Upon receipt of a complaint by a citizen or a representative of the Police Department that the location and use of a telephone interferes with the health and welfare of the public, the Director of Community Services shall conduct a hearing, after providing notices of same to all affected parties, to ascertain if the use of the telephone endangers the health and welfare of the community. If he or she finds by a preponderance of the evidence presented that the use of the telephone constitutes a violation of the standards and conditions of § 317-5 of this chapter or constitutes a threat to the health and welfare of the public, he or she shall revoke any permit issued by his or her Department for the use of the telephone. He or she may also order such other relief as he or she deems fair, including requiring the telephone to be restricted to outgoing calls only.

§ 317-7. Applicability to existing public telephones.

- A. The owners of existing public telephones shall apply for the permit required hereunder within 30 days from the date this chapter becomes final. The Township of Montclair reserves the right to reject any and all locations submitted for approval based upon their existing nonconformance to this chapter.
- B. If a permit is not obtained within the time specified herein, or if the Director of Community Services rejects any application for a permit, the owners shall forthwith remove said public telephone and all ancillary equipment. If the owners fails or refuses to remove said public telephone within 10 days from notification by the Director of Community Services, the Director of Community Services or his or her designee may cause the public telephone to be removed. Public telephone equipment removed by the Township shall be released to the lawful owner thereof upon payment of a fee of \$250 to the Township of Montclair. **[Amended 6-15-2004 by Ord. No. 04-34]**
- C. If no person makes a claim for return of a public telephone and/or ancillary equipment removed by the Township under this section within six months from the date of removal, it may be disposed of pursuant to N.J.S.A. 40A:14-157.

§ 317-8. 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.

Chapter 320**TOBACCO PRODUCTS**

[HISTORY: Adopted by the Council of the Township of Montclair 1-28-1997 by Ord. No. 97-1. Amendments noted where applicable.]

GENERAL REFERENCES

Throwing lighted cigarettes in parks — See Ch. 234, § 234-2H.

Trash receptacles for businesses selling tobacco products — See Ch. 292, Art. IV, § 292-27.

§ 320-1. Statement of purpose.

- A. The Surgeon General of the United States has called for a ban on the sale of cigarettes by vending machines.
- B. The State of New Jersey has banned the sale of cigarettes to minors under N.J.S.A. 2A:170-51.
- C. Montclair enforcement officials are hampered in their efforts to prevent the sale of cigarettes to minors by vending machines and freestanding or attached cigarette displays.
- D. The Township of Montclair is authorized to enact ordinances not contrary to the laws of this state or of the United States as it may deem necessary and proper for the protection of persons and for the preservation of the public health, safety and welfare of the Township.

§ 320-2. Definitions.

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

BOARD OF HEALTH — The Township of Montclair Board of Health.

FREESTANDING OR ATTACHED TOBACCO/CIGARETTE DISPLAY — Any display promotion of tobacco/cigarette products in any area of an establishment not specifically behind a sales counter and within the grasp of the public so as to allow self-service.

HEALTH OFFICER — The administrative officer of the Township of Montclair, and/or his or her authorized representatives.

PERSON — An individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other legal entity.

TOBACCO — Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

TOBACCO RETAILER — Any person or entity that operates a store, stand, booth, concession or place at which sales of tobacco are made to purchasers for consumption or use; shall also mean a person or entity that owns, operates or uses a vending machine and/or a vending machine location.

VENDING MACHINE — Any automated, self-service device which upon insertion of money, tokens or any other form of payment, dispenses cigarettes or other tobacco products.¹⁷⁴

174.Editor's Note: See Ch. 333, Vending Machines.

§ 320-3. Prohibition of tobacco sale to minors; and packaging of tobacco products. [Amended 4-20-2004 by Ord. No. 04-19]

- A. The Health Officer shall enforce the terms of this chapter in addition to all provisions of state law related to the prohibition of the sale of tobacco to minors set forth in N.J.S.A. 2A:170-51 et seq. and the provisions of N.J.S.A. 54:40A-1 et seq. with regard to licensing and display of appropriate signage at point of sale.
- B. Sale or distribution of single cigarettes or any tobacco product in any form other than an original stamped factory-wrapped package is prohibited.

§ 320-4. Removal of vending machines and displays.

- A. It shall be unlawful to offer for sale or to sell tobacco through a tobacco vending machine or freestanding or attached tobacco/cigarette display in the Township of Montclair.
- B. All tobacco vending machines and freestanding or attached tobacco/cigarette displays made unlawful by the terms of this chapter shall be removed within 30 days from the effective date of this chapter.

§ 320-5. Enforcement.

- A. Whenever the Health officer, or his or her designee, or a police officer of the Township of Montclair reasonably believes there exists a violation of this chapter, such officer may issue a summons not later than 90 days after discovery of the alleged violation. The summons shall be delivered personally or sent via certified mail to the alleged violator.
- B. The Health Officer, or his or her designee, or a police officer of the Township of Montclair, after giving proper identification, may summarily inspect any matter, thing, premises, place, person, record, incident or event as necessary to enforce the provisions of this chapter.
- C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer, or his or her designee, or a police officer engaged in enforcement of the terms hereof.
- D. Citizens may bring complaints for violation of this chapter by making same in the Municipal Court of Montclair, who shall serve same in accordance with law.

§ 320-6. Violations and penalties.

- A. Unless otherwise provided by law, statute or ordinance, any person violating any provision of this chapter shall, upon conviction thereof, pay a fine of \$250 for a first offense, \$500 for a second offense and \$1,000 for the third and each consecutive offense.
- B. Each day of possession or use of a tobacco vending machine or other violation of the terms of this chapter shall constitute a separate violation of this chapter.

Chapter 322**TOWING**

[HISTORY: Adopted by the Council of the Township of Montclair 8-9-1988 by Ord. No. 88-51 (Art. XIV of Ch. 88 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Reimbursement for towing services for hazardous waste cleanup — See Ch. 182, § 182-10.

§ 322-1. Definitions.

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

CRUISING — The operation of an unengaged wrecker along the public streets in any fashion intended, likely or calculated to solicit business.

OWNER — A person, firm or corporation who owns and/or operates a vehicle on the roads and highways within the Township of Montclair, which vehicle, by reason of being disabled or being unlawfully upon said roads, requires towing services.

TOWING OPERATOR — A person, firm or corporation engaged in the business of providing wrecker services for vehicles towed, which services are made available to the general public upon such rates, charges and fees as determined by said person, firm or corporation and who is holder of a permit under the provisions of this chapter. **[Amended 8-12-2013 by Ord. No. O-13-45]**

WRECKER — A vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying or removing any and all kinds of vehicles or parts of vehicles which are unable to be operated under their own power, for which a service charge or fee is exacted.

§ 322-2. Permit required. [Amended 8-12-2013 by Ord. No. O-13-45]

No person shall engage in municipal police towing within the Township of Montclair, including the operation of wreckers or tow trucks for the aforementioned purpose, without qualifying as a towing operator and first obtaining a permit therefor.

§ 322-3. Application for permit; contents.

- A. Every applicant for a permit under this chapter shall complete, sign and verify a written application, in duplicate, on forms furnished by the Municipal Clerk.
- B. The application shall state:
 - (1) The name and address of the applicant.
 - (2) The residence address and full local address, if any, of the applicant.
 - (3) The serial number and registration of each vehicle to be operated by the applicant.
 - (4) The location of the storage area for wreckers and cars and the amount of available space for storage of towed cars.

- (5) The name and address of the insurer and policy numbers of the garagekeeper's liability and garage liability policies.
- (6) Consent to appointment of the Municipal Clerk as the applicant's true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.
- (7) An agreement to be available for service or on call 24 hours a day and to abide by the fees contained in this chapter.

§ 322-4. Filing of application; investigation.

- A. The applicant shall file the completed application forms, in duplicate, with the Police Department of the Township.
- B. The Chief of Police shall be charged with the investigation of prospective permittees and shall recommend the issuance of a permit when he or she finds that:
 - (1) The public convenience and necessity require the proposed wrecker service for which an application has been submitted.
 - (2) The applicant and all employees are fit and proper persons to conduct or work in the proposed business.
 - (3) The application submitted by the applicant complies with the requirements of this chapter and all other applicable ordinances of the Township.

§ 322-5. Issuance of permit; contents; term; fee.

- A. The Municipal Clerk shall promptly notify the applicant of the approval of his or her application by the Chief of Police and shall issue the permit.
- B. The permit shall contain the following:
 - (1) The name and address of the permittee.
 - (2) The number of the permit and the amount of fee paid.
 - (3) The date of issuance of the permit and the expiration date.
 - (4) The signature of the Municipal Clerk and the Seal of the Township.
- C. All permits shall expire on December 31 of the year issued, unless an earlier expiration date is indicated on the permit.
- D. The Municipal Clerk shall send a copy of the permit to the Police Department for filing and shall keep a permanent record of all permits issued.
- E. The registration fee for the issuance of a permit certifying compliance herewith and authorizing towing issued under this section shall be \$200. No portion of this fee shall be prorated for any part of the year. **[Amended 7-7-2009 by Ord. No. O-032-09]**

§ 322-6. Permit not transferable; display.

- A. A permit issued under this chapter shall not be transferable.
- B. Each permittee shall produce his or her permit whenever called upon to do so.

§ 322-7. Vehicle requirements.

Each tower shall make available for service during the term of this contract at least one wrecker to be at least one-ton capacity. The contractor must furnish police scanner radios, which shall be tied into the proper police frequency, in order to receive calls for service. In addition to the wrecker required above, the contractor shall make available at least one heavy-duty wrecker of a minimum thirty-eight-ton capacity and at least one flatbed carrier with at least a two-car capacity for service during the term authorized by the tower's permit. Each tower shall submit proof of such availability, including contracts, leases or contingent leases with lessors, if any. The permit application shall list all equipment to be made available, the owner of the same and encumbrances, if any.

§ 322-8. Towing and storage fees; fee cards. [Amended 9-20-1988 by Ord. No. 88-56; 2-7-1989 by Ord. No. 89-11; 12-19-2006 by Ord. No. 06-69; 11-12-2007 by Ord. No. 07-46; 7-24-2018 by Ord. No. O-18-032]

A. Fees.

- (1) The maximum rate for towing and storage of a vehicle within the Township shall be as follows:
 - (a) Days, 8:00 a.m. to 6:00 p.m.: \$85.
 - (b) Nights, 6:00 p.m. to 8:00 a.m.: \$95.
 - (c) Sundays and holidays: \$95.
 - (d) Dolly tow: \$25, plus the normal towing rate.
 - (e) Out-of-town regular tow: \$85, plus \$3 per mile after the first mile.
 - (f) Out-of-town dolly tow: \$85, plus the normal rate, plus \$3 per mile after the first mile.
 - (g) Outdoor storage: \$30 per day.
 - (h) Indoor storage: \$35 per day.
 - (i) Flatbed towing: no more than \$100.
 - (j) Trucks: discretionary.
 - (k) Road service (jump start, tire change, gasoline): \$50 from 8:00 a.m. to 6:00 p.m.; \$60 from 6:00 p.m. to 8:00 a.m.
 - (l) Lockout fee for unlocking and brake release for impound vehicles without keys: \$60.
- (2) The fee for towing out of and into the Township must be agreed to, in writing, by the owner of any vehicle to be towed before said vehicle is towed.
- (3) Half-ton pickups and vans should be considered as automobiles for purposes of this chapter.
- (4) If a vehicle owned or operated by a crime victim is towed by a licensee to premises controlled by the Police Department solely for the purpose of utilizing the vehicle or its contents as

evidence or in an ongoing criminal investigation, the Township shall be charged \$1 per tow. If this vehicle cannot be removed from the premises controlled by the Police Department in a timely manner by the crime victim or an authorized agent, then the licensee may be requested by the Police Department to remove and store said vehicle where the owner or agent shall be responsible for these charges only, not the original tow.

- B. Fee cards shall be conspicuously posted indicating the maximum rates for towing and storage and shall be in the possession of the drivers of all wreckers and presented to the driver or owner of any vehicle to be towed.
- C. An administrative fee of \$12 shall be paid to the Township for each vehicle towed in accordance with this chapter, said fee payable on a monthly basis upon the filing of monthly reports as required by § 322-17 hereof.

§ 322-9. Towing of Township vehicles. [Amended 11-12-2007 by Ord. No. 07-46]

Any Township vehicles, whether located on or off the road, will be towed free of charge, and towing operators shall also provide emergency road service for Township vehicles, at no charge, including but not limited to repair of flat tires, jump-starting and winching of vehicles, and refueling.

§ 322-10. Required equipment on vehicles.

The vehicles described in § 322-7 shall be equipped with the following items:

- A. A minimum of two flashing yellow lights pointed to the rear and so mounted as not to be obstructed by any motor vehicle being towed by the permittee.
- B. A minimum of two flashing yellow lights spaced at least four feet apart and so constructed as to be mountable on the rear of any vehicle being towed by the permittee.
- C. One shovel and one broom for use in removing debris from roadways.
- D. One twenty-pound dry-chemical fire extinguisher.
- E. Absorbents, such as "Speedy Dry." [Amended 12-19-2006 by Ord. No. 06-69]

§ 322-11. Removal of debris from accident scene.

In the event that a permittee is requested by the Township to render services in accordance with this chapter at the scene of a motor vehicle accident, the permittee shall remove from the street all broken glass, metal and other debris resulting from said accident.

§ 322-12. Insurance requirements.

- A. No permit shall be issued to an applicant until he or she shall have deposited with the Chief of Police the following insurance policies:
 - (1) A garagekeeper's liability policy covering fire, theft and explosion in the minimum amount of \$25,000 and collision coverage subject to a maximum deductible of \$100, with each accident deemed a separate claim.
 - (2) A garage liability policy covering the operation of the applicant's business, equipment and vehicles for any bodily injury or property damage in the minimum amounts of \$500,000 for any

one person killed or injured and \$1,000,000 for more than one person killed or injured in any one accident. This policy shall also provide for coverage in the minimum amount of \$10,000 for all damage arising out of injury to or destruction of property.

- B. Each policy required herein must contain an endorsement providing for 20 days' notice to the Township in the event of any material change or cancellation.

§ 322-13. Twenty-four-hour operation required.

No permit shall be issued to an applicant hereunder unless its employee shall be available or on call on a twenty-four-hour basis to tow disabled vehicles.

§ 322-14. Agent for service of process.

No permit shall be granted to an applicant unless and until he or she has appointed the Municipal Clerk his or her true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.

§ 322-15. Storage areas. [Amended 8-12-2013 by Ord. No. O-13-45]

All permittees must have sufficient storage areas on their own premises, which must be located within the Township of Montclair or within a two-mile radius of the northeast corner of the intersection of Bloomfield Avenue and Valley Road, to store not fewer than 50 towed vehicles, and the applicant shall have sufficient available space for properly accommodating and protecting all disabled motor vehicles to be towed or otherwise removed from the place where they are disabled. The disabled vehicles shall not be stored or allowed to remain on public property or Township streets or on property which is not zoned for such storage.

§ 322-15.1. Response time. [Added 8-12-2013 by Ord. No. O-13-45]

As a condition of being granted a permit under this section, a towing operator must demonstrate to the reasonable satisfaction of the Chief of Police that it can respond to a towing order in no longer than 15 minutes from the time of the call.

§ 322-16. Enforcement and supervision.

- A. The governing body hereby designates the Police Department, generally, and the Chief of Police, in particular, as its agent to supervise the enforcement of the terms and provisions of this chapter and the rules and regulations adopted hereunder.
- B. No individual owner or operator of a wrecker shall respond to the scene of an auto accident except upon notification by the officer in charge of police headquarters or upon request of the driver or owner of the vehicle involved.
- C. The officers investigating accidents which require a wrecker shall get authorization from the drivers or owners of cars as to who is to do the towing.
- D. To amplify and expedite the enforcement of the provisions of this chapter, the Chief of Police is authorized to establish a system of rotation in the assignment of wreckers where the owner or the driver declines to indicate any specific choice of a wrecker to remove the disabled vehicle.
- E. No individual owner or operator of a wrecker nor any permittee shall tow or remove any vehicle from

the place where it is disabled unless the permittee is able to store or place the disabled vehicle on property owned or leased by the permittee which is zoned for such storage, and it shall be considered to be a violation of this chapter and cause the revocation of a permit if the permittee stores or allows the disabled vehicle to remain on public property or on Township streets.

§ 322-17. Record book; monthly reports; other reports.

- A. Every person authorized to tow hereunder shall record in a book kept solely for such purpose the details of each disabled vehicle towed, serviced or transported, together with full information concerning the details surrounding the hiring, the names of the owners of the towed vehicle and of the patron engaging him or her and the charges paid for his or her services. The record book herein described shall be kept open for inspection at all times by any duly authorized representative of the Township.
- B. Each permittee shall submit, by the fifth day of each month, a detailed written report to the Chief of Police indicating all vehicles towed the previous month and all towed vehicles currently stored. **[Amended 9-20-1988 by Ord. No. 88-57]**
- C. Each permittee will comply with the Montclair Police Department regulations regarding impound reports and vehicle release permits. **[Added 9-20-1988 by Ord. No. 88-57]**

§ 322-18. Revocation of permit; notice of hearing.

- A. Permits issued under the provisions of this chapter may be revoked by the Township Manager, after notice and hearing, for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for the permit.
 - (2) Any willful violation of this chapter.
 - (3) Conviction of any crime or disorderly person's offense involving moral turpitude.
- B. Notice of the hearing for revocation of a permit shall be given to the permittee, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by registered or certified mail, return receipt requested, addressed to the permittee at his or her last known address, at least five days prior to the date set for the hearing.

§ 322-19. Appeal from denial of permit.

- A. Any person aggrieved by the action of the Chief of Police or the Municipal Clerk in the denial of a permit as provided in § 322-5 of this chapter shall have the right of appeal to the Township Manager. Such appeal shall be taken by filing with the Township Manager, within 14 days after notice of the action complained of is mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal.
- B. The Township Manager shall set a time and place for the hearing of such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 322-18 for the notice of the hearing on revocation.
- C. The decision and order of the Township Manager on such appeal shall be final and conclusive.

§ 322-20. Violations and penalties. [Amended 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.

MONTCLAIR CODE

Chapter 324

TREES

[HISTORY: Adopted by the Township Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 100.

Property maintenance — See Ch. 247.

Landscapers — See Ch. 200.

Stormwater control — See Ch. 295.

Land use procedures — See Ch. 202.

ARTICLE I
Preservation of Shade Trees
[Adopted 6-12-2012 by Ord. No. O-12-44]

§ 324-1. Findings and purpose.

The Council of the Township of Montclair finds that:

- A. Trees and the urban forest are a valuable natural resource worthy of protection and conservation on a sustainable basis.
- B. Trees stabilize soil, help reduce stormwater runoff and wind erosion of soils, improve water quality, reduce noise pollution, reduce air pollution, sequester carbon dioxide associated with global warming, create shade and help reduce energy consumption in the summertime, lower ambient air temperatures throughout the Township during the summer, and provide habitat for birds and other species.
- C. Trees create scenic benefits that enhance local property values in the Township.
- D. The development of a mature and sustainable urban forest resource throughout the Township requires a comprehensive program for the management of the planting and removal of trees on public and private property.

§ 324-2. Definitions.

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

DIAMETER AT BREAST HEIGHT or DBH — The diameter of a tree measured at 4 1/2 feet above the ground on the downhill side of the tree.

MONTCLAIR TREE REPLANTING FUND or TREE FUND — The separate account established by the Township's governing body for the replanting of trees on public property, School Board property, and/or county property and funded by those persons electing to pay into the Montclair Tree Replanting Fund instead of implementing an on-site tree restoration plan.

PROPERTY — All private lots within the Township, whether developed, undeveloped, subdivided, or otherwise without exception.

SHADE TREE — Any deciduous or coniferous species which is eight inches or more DBH or has obtained a height of at least 25 feet.

TOWNSHIP FORESTER — A person employed by the Township who is certified by the State of New Jersey as a certified tree expert and has a minimum of three years of experience in the planting, care, and maintenance of trees.

TREE — Any shade tree.

TREE REMOVAL CONTRACTOR — A person in the regular business of removing trees for hire who is registered with the Township.

TREE REMOVAL PERMIT — A permit issued by the Township pursuant to the provisions of this article authorizing a person to remove trees.

§ 324-3. Applicability; prohibited acts; emergency exemption.

- A. **Applicability.** The provisions of this article shall apply to trees on all property within the Township.

- B. Prohibitions. No person, applicant, or tree removal contractor may remove, destroy, or substantially alter a tree without having first been issued a tree removal permit. Routine annual pruning to maintain the health of a tree or drastic pruning in response to damage from adverse weather conditions shall not be considered substantially altering the tree.
- C. Emergency exemption. A tree removal permit is not required when there is an immediate safety risk to person or property.

§ 324-4. Permit application; tree removal contractor registration and insurance.

- A. No tree within the Township may be removed or substantially altered by any person other than a tree removal contractor registered with the Township. The tree removal contractor shall endorse each tree removal permit application on forms provided by the Township.
- B. A tree removal permit shall be issued upon filing of a complete application and payment of the required fee.
- C. An application for a tree removal permit shall include, at minimum, the following:
 - (1) A tree restoration plan, defined as a plan prepared by the tree removal contractor on behalf of the applicant providing the specifications, contractors, costs, and timing for the replacement of trees removed from the applicant's property; payment of the equivalent value of the removed trees into the Montclair Tree Replanting Fund; or a combination thereof. Tree restoration plans shall be fully implemented within one year of the issuance of the tree removal permit.
 - (2) A tree restoration plan certification, defined as the self-affidavit certification submitted by the tree removal contractor for the implementation of the tree restoration plan submitted as part of the tree removal permit application. The tree removal contractor shall certify that the tree restoration plan will be fully implemented as submitted.
 - (3) A certification of diseased trees, defined as the certification by the tree removal contractor that a tree being removed meets the criteria for a diseased tree based on § 324-6, Standards for decisionmaking on tree removal permit applications.
- D. All tree removal contractors operating within the Township shall:
 - (1) Be licensed in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act;¹⁷⁵
 - (2) Maintain the required insurance;
 - (3) Hold a current valid registration with the Township of Montclair; and
 - (4) Display proof of same on each of its vehicles operating in the Township.
- E. A tree removal contractor shall carry and provide proof of the following insurance coverage: \$2,000,000 property damage and bodily injury insurance per incident; \$300,000 automobile insurance per incident; and workers' compensation insurance in such amounts as required by law. All tree removal contractors shall require their insurers to provide the Township with a minimum of 30 days' advance notice of the cancellation of any required coverage. Upon the cancellation of any of the required insurance coverage, the tree removal contractor's registration shall automatically be

¹⁷⁵Editor's Note: See N.J.S.A. 45:15C-11 et seq.

suspended, and the tree removal contractor shall thereafter be prohibited from performing. Upon the submission of proof of satisfactory proof of insurance coverage, licensure in accordance with the New Jersey Tree Experts and Tree Care Operators Licensing Act, and a certification that the tree removal contractor has read, understands, and will comply with all requirements of this rule, then the Township Clerk shall register the tree removal contractor as approved to do business in the Township.

§ 324-5. Tree replacement.

- A. Persons removing any tree shall replace said tree with a new tree as provided below. Replacement trees shall be two- to two-and-one-half-inch caliper and be limited to native species or species suited to urban environments. The Township Forester shall prepare, publish on the municipal website, www.montclairnjusa.org, and annually review a suitable species list for replacement trees. Any applicant who makes an application for a financial waiver and is granted one shall be exempt from the replacement provision, provided that replacement trees are not available through the Township.
- B. In lieu of providing a replacement tree, a contribution of \$250 shall be paid to the Tree Fund. Said fund shall be used to supplement public tree replacement in the Township.

§ 324-6. Standards for decisionmaking on tree removal permit applications.

The tree removal contractor shall be responsible for a tree removal permit application's compliance with all applicable and relevant tree management guidelines, including, without limitation, the American National Standard A300 (Part 5) Management practices "Tree and Development: A Technical Guide to Preservation of Trees During Land Development" (Matheny and Clark), "Protection and Care of Urban Forest" (NJDEP Division of Parks and Forestry), "Evaluation of Hazard Trees in Urban Areas" (Matheny and Clark), "Urban Tree Risk Management" (USDA Forest Service), all as may be changed or supplemented from time to time.

§ 324-7. Enforcement; violations and penalties.

- A. The Township Forester shall have the authority to enter onto any property in the Township and to issue a stop-work order to any person in violation of this article.
- B. Violations of this article shall be punishable by a fine of no more than \$1,000.
- C. The Township shall revoke the registration of any tree removal contractor who has submitted a fraudulent tree removal permit application or a false certification.
- D. Noncompliance with the provisions of this article may be grounds for denial of registration of a tree removal contractor.

§ 324-8. Fees.

- A. Application fee for a tree removal permit shall be \$15 per tree.
- B. A tree removal contractor shall pay an annual registration fee of \$75.
- C. Exemptions:
 - (1) The tree removal permit application fee is waived for the removal of diseased trees or trees deemed hazardous.
 - (2) The removal permit fee is waived for the removal of shade trees listed as invasive exotic.

- (3) An applicant with a financial hardship may request a waiver of permit fees by filing a personal financial hardship exemption request letter with his or her tree removal permit.
- (4) These fee exemptions do not constitute an exemption from any other provision of this article.

§ 324-9. Notices; registration deadline.

- A. Within 30 days of the adoption of this article, the Town Clerk shall mail a copy of this article to persons and entities known to be in the business of maintaining, cutting, or removing trees within the Township.
- B. Within 60 days thereafter, any company desiring to conduct the business of maintaining, cutting, or removing trees within the Township shall register with the Township.

Chapter 326**VEHICLES, ABANDONED**

[HISTORY: Adopted by the Township Council of the Township of Montclair 9-16-2014 by Ord. No. O-14-032. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 327.

§ 326-1. Findings.

The Township Council hereby finds, determines and declares that the keeping, storage or abandonment of any motor vehicle not currently used for transportation, or not licensed for operation in the current year, out of doors within the limits of the Township is a nuisance and contrary to the public health, safety and welfare of the inhabitants of the Township, in that such articles so abandoned or stored may attract persons of tender years who may play in and about them and be injured in so doing and in that such vehicles so abandoned and stored out of doors exposed to the elements deteriorate and exposure to view of such motor vehicles is unsightly and detrimental to the character and appearance of the Township.

§ 326-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABANDONED MOTOR VEHICLE —

- A. Includes any motor vehicle, omnibus, motorcycle, road tractor, trailer, truck, truck tractor or vehicle which:
- (1) Has remained on or about private property or public property without the consent of the owner or other person so in charge of the property for a continuation period of more than 48 hours; and
 - (2) Does not have current license plates or registration;
 - (3) Is found to be partially dismantled, mechanically inoperative, wrecked, junked or discarded and is allowed to remain in such condition for a period of 48 hours;
 - (4) Is found without one or more tires.
- B. This definition shall not be construed as prohibiting a vehicle owner from making repairs to one personal registered vehicle, on private property, with the property owner's consent, for a reasonable time not exceeding 30 days.

MOTOR VEHICLE, OMNIBUS, ROAD TRACTOR, TRAILER, TRUCK, TRUCK TRACTOR AND VEHICLE — Are intended to have the meanings stated and defined in N.J.S.A. 39:1-1 et seq.

§ 326-3. Violations and penalties.

Any person who violates or fails to comply with any of the provisions of this chapter, upon conviction

thereof, and in addition to any towing charges, storage fees and other costs, shall be punished by a minimum fine of \$100 and not exceeding \$1,000 or by imprisonment in the county jail for any term not exceeding 90 days, or by both such fine and imprisonment. A separate offense shall be deemed committed each and every day during or on which such violation or noncompliance occurs or continues.

§ 326-4. Storage or abandonment prohibited; exception.

It shall be unlawful for any person to store or abandon or suffer or permit the storage or abandonment of any motor vehicle out of doors upon any public or private lands in any zone in the Township; provided, however, that nothing contained in this section shall be deemed to prohibit the placing, keeping or storage of any motor vehicle in a garage or other enclosed structure, and, in residential zones.

§ 326-5. Administration; inspection; enforcement.

- A. Enforcement officer. The Code Enforcement Inspector is hereby designated and appointed to enforce the provisions of this chapter. The Code Enforcement Inspector may authorize members of his or her department to make inspections, to prepare and serve notices and orders and to take all action necessary to secure compliance with the provisions of this chapter. The Code Enforcement Inspector shall seek and receive the cooperation of all other Township departments having jurisdiction over matters covered by this chapter.
- B. Inspection of premises. All premises within the Township of Montclair covered by this chapter shall be subject to inspection from time to time by the Code Enforcement Inspector to determine the condition thereof in order that he or she may perform his or her duty of safeguarding the health and safety of the persons occupying and using the same and of the general public. For the purpose of making such inspections, the enforcing officer is hereby authorized to enter, examine and survey at all reasonable times all such premises; provided, however, that such entries are made in such manner to cause the least possible inconvenience to the persons in possession. The owner, operator and persons occupying the same shall give the enforcing officer free access to the same at all reasonable times for the purpose of such inspection. Every person occupying such premises shall give the owner and operator thereof access to that portion of the premises occupied by or in possession of such person at all reasonable times for the purpose of making such repairs, alterations or corrections as are necessary to effect compliance with the provisions of this chapter or with any lawful rules or regulations adopted or any lawful order issued pursuant to the provisions of this chapter.
- C. Where violations of the provisions of this chapter are brought to the attention of the enforcing officer, such officer or his or her duly authorized representative shall prepare a notice in writing setting forth all violations and shall order that the same be eliminated within 30 days. Such notice and order shall be delivered to the occupant or owner or operator or any or all of them, as the case may be, personally or by leaving the same with any person in charge of the premises. In the event that no such person is found upon the premises, service of notice and order shall be made by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises and by mailing, by certified mail, a copy thereof to the owner, operator or occupant at his or her last known post office address.

MONTCLAIR CODE

Chapter 327

VEHICLES AND TRAFFIC

**[HISTORY: Adopted by the Council of the Township of Montclair 5-23-2000 by Ord. No. 00-20
Amendments noted where applicable.]**

ARTICLE I
General Provisions

§ 327-1. Definitions.

Whenever any words and phrases are used in this chapter, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the New Jersey Statutes Annotated shall be deemed to apply to such words and phrases used herein.

§ 327-2. Repealer.

All former traffic ordinances of the Township of Montclair are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this chapter.

§ 327-3. Violations and penalties. [Amended 12-18-2018 by Ord. No. O-18-046; 4-23-2019 by Ord. No. O-19-013]

For a violation of a provision of this chapter or any supplement thereto for which no specific penalty is provided, the offender shall be liable to receive a penalty of not more than \$500 or imprisonment for a term not exceeding 15 days, or both.

ARTICLE II
Traffic Regulations

§ 327-4. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those streets described below:

Intersection

Elm Street (CR 668) and Washington Street/Union Street [**Added 8-24-2010 by Ord. No. O-10-048**]

Watchung Avenue (CR 655) and North Mountain Avenue [**Added 10-7-2008 by Ord. No. 08-32**]

§ 327-5. One-way streets.

The following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
Beverly Road	East	From Grove Street to Morningside Avenue
Beverly Road	West	From Fairmount Avenue to Morningside Avenue
Briar Hill Road	East	From Undercliff Road to Eaglerock Way
Central Avenue	North	From Wendover Road to Valley Road
Church Street	West	From Bloomfield Avenue to
Claremont Avenue	West	From the Township line to a point 390 feet west of Highland Avenue. South Park Street
Cottage Place	North	From Munn Street to Claremont Avenue
Edgemont Road [Added 11-25-2008 by Ord. No. 08-45]	South	From Parkway to Berkeley Place
Fairmount Avenue	North	From Watchung Avenue to Beverly Road
Frink Street	North	From Walnut Street to Label Street
George Street	West	From Sherwood Street to Claremont Avenue
Glenridge Avenue	West	From Forest Street to Bloomfield Avenue
Hartley Street [Amended 8-3-2010 by Ord. No. O-10-038; 12-7-2010 by Ord. No. O-10-068]	North	From Washington Street to Bloomfield Avenue
Laurel Place [Amended 9-21-2010 by Ord. No. O-10-054]	West	From Valley Road to Upper Mountain Avenue

Name of Street	Direction of Travel	Limits
Linden Avenue [Added 2-24-2026 by Ord. No. O-26-02]	West	From Orange Road to Willowdale Avenue
Maple Place	North	From Bloomfield Avenue to the parking lot
Mission Street	North	From Elmwood Avenue to Bloomfield Avenue
Morningside Avenue	South	From Beverley Road to Watchung Avenue
Munn Street	West	From North Fullerton Avenue to Park Street
Orange Road	North	From Linden Avenue to Orange Road West
Orange Road	South	From Union Street to Elm Street and Llewellyn Road
Orange Road West	South	From Cedar Avenue to Orange Road
Portland Place	West	From Park Street to Valley Road
Prospect Place	North	From Claremont Avenue to Bloomfield Avenue
Rand Place	East	From North Fullerton Avenue to Fidelity Place
Seymour Street	South	From Bloomfield Avenue to Roosevelt Place
South Park Street [Added 6-24-2008 by Ord. No. 08-20]	South	From Church Street to The Crescent
Sutherland Road [Added 5-19-2026 by Ord. No. O-26-14]	West	From Harrison Avenue to Stonebridge Road
Sylvan Place	West	From Erie Street to Forest Street
Watchung Plaza	North	From Fairfield Street to Watchung Avenue
Watchung Plaza	South	West side

§ 327-5.1. Street closing and limited-duration traffic and parking regulations. [Added 9-9-2008 by Ord. No. 08-29; amended 10-20-2015 by Ord. No. O-15-030]

- A. The Township Manager or his or her designee is hereby authorized to provide by regulation for the closing of any street or portion thereof to motor vehicle traffic, or the implementation of traffic or parking controls of limited duration, on any day or days, during specified hours, whenever he or she determines that such action is necessary for the preservation of the public safety, health or welfare, or for the maintenance of safe and orderly pedestrian and vehicle circulation.
- B. Any regulation promulgated in accordance with this section shall provide for the posting of proper signs advising of such street closing during the time the street is closed or the traffic or parking controls are in effect.
- C. Any violation of this section or any regulation promulgated hereunder shall be punishable by a fine not to exceed \$100.
- D. Any regulation adopted under this section which provides for the closing of any street or portion

thereof for more than 48 continuous hours shall not become effective unless and until same has been submitted to and approved by the Commissioner of the Department of Transportation.

- E. The authority granted to the Township Manager pursuant to this section shall be narrowly construed and shall not be utilized to close any street more than two days a week or to impose any traffic or parking regulations on a regular basis for more than eight consecutive hours in any twenty-four-hour period. Nothing in this section shall limit the authority of the Township Manager or his/her designee from acting in an emergency.

§ 327-5.2. Closing of streets on school days. [Added 8-24-2010 by Ord. No. O-10-047; amended 8-16-2011 by Ord. No. O-11-45]

The following streets or parts of streets shall be closed to vehicular traffic (except for school buses) from September through June on school days only during the times set forth below:

Name of Street	Direction	Hours/Days	Location
Fulton Street	Eastbound	8:30 a.m. to 3:30 p.m./Monday to Friday	Elm Street to Miller Street
Garden Street [Added 8-16-2011 by Ord. No. O-11-46]	Westbound	8:30 a.m. to 3:30 p.m./Monday to Friday	Entire length
North Fullerton Avenue [Added 8-16-2011 by Ord. No. O-11-46]	Both	8:30 a.m. to 3:30 p.m./Monday to Friday	Frederick Street to Garden Street
Washington Street	Both	8:30 a.m. to 3:30 p.m./Monday to Friday	From Elm Street east 267 feet to the Charles Bullock School driveway

§ 327-6. U-turns.

No person shall make a U-turn at any of the following locations:

Name of Street	Location
Bloomfield Avenue	Entire length
South Park Street	Entire length

§ 327-7. Prohibited turns at intersections.

No person shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
Bloomfield Avenue	East	Left	All	North Fullerton Avenue
Bloomfield Avenue	East	Right	All	South Fullerton Avenue

Name of Street	Direction of Travel	Pro- hibited Turn	Hours	At Intersection of
Bloomfield Avenue	East	Left	All	Exit driveways from Fresh Fields Markets, Inc.
Bloomfield Avenue	East	Left		Exit driveway from Maple Place parking lot
Bloomfield Avenue [Added 7-22-2025 by Ord. No. O-25-21]	East	Left	All	Francis Place
Bloomfield Avenue	West	Left	All	South Fullerton Avenue
Bloomfield Avenue	West	Left	All	Church Street
Bloomfield Avenue [Added 7-22-2025 by Ord. No. O-25-21]	West	Left	All	St. Lukes Place
Chestnut Street [Added 12-6-2011 by Ord. No. O-11-080]	East	All	7:45 a.m. to 8:15 a.m.	Park Street
Chestnut Street [Added 12-6-2011 by Ord. No. O-11-080]	West	All	7:45 a.m. to 8:15 a.m.	Park Street
Church Street	East	Left	All	North Fullerton Avenue
Crestwood Road	South	Left	All	Claremont Avenue
Francis Place [Added 7-22-2025 by Ord. No. O-25-21]	South	Left	All	Bloomfield Avenue
Fullerton Park North Parking Plaza exit	West	Left	All	Park Street
Glenridge Avenue	West	Left	All	Bloomfield Avenue
Glenridge Avenue	West	Left	All	Church Street
Glenridge Avenue	West	Left	All	South Fullerton Avenue
Haddon Place [Added 12-19-2023 by Ord. No. O-23-42]	West	Left	7:30 a.m. to 8:15 a.m. and 2:30 p.m. to 3:30 p.m./school days	Park Street

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
Linden Avenue	East	Left	All	Orange Road
Midland Avenue [Added 12-6-2011 by Ord. No. O-11-080]	North	Right	7:45 a.m. to 8:15 a.m.	Chestnut Street
Midland Avenue [Added 12-6-2011 by Ord. No. O-11-080]	North	Left	7:45 a.m. to 8:15 a.m.	Chestnut Street
Midland Avenue [Added 3-20-2012 by Ord. No. O-12-16]	South	Left	All	Bloomfield Avenue
Normal Avenue [Added 3-4-2014 by Ord. No. O-14-008]	East	Left	All	Carlisle Road
North Orange Road	North	Left	All	Llewellyn Road
Orange Road [Added 11-12-2013 by Ord. No. O-13-54]	South	Left	All	Linden Avenue
Orange Road West	West	Left	All	Cedar Road
Park Street [Added 12-6-2011 by Ord. No. O-11-080]	North	All	7:45 a.m. to 8:15 a.m.	Chestnut Street
Park Street [Added 12-6-2011 by Ord. No. O-11-080]	South	All	7:45 a.m. to 8:15 a.m.	Chestnut Street
St. Lukes Place [Added 7-22-2025 by Ord. No. O-25-21]	North	Left	All	Bloomfield Avenue
South Fullerton Avenue	North	Left	All	Church Street
Upper Mountain Avenue	North	Left	All	Bradford Avenue (trucks only prohibited)

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
Upper Mountain Avenue [Added 6-11-2002 by Ord. No. 02-29]	South	Left	All	Bloomfield Avenue
Upper Mountain Avenue	South	Right	All	Bradford Avenue (trucks only prohibited)
Watchung Plaza [Added 4-19-2022 by Ord. No. O-22-08]	North	Left	All	Watchung Avenue and Park Street

§ 327-7.1. Prohibited turns at intersections, except buses. [Added 1-10-2012 by Ord. No. O-11-084]

No person, except the operator of a school or transit bus, shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection Of
Park Street	North	All	7:45 a.m. to 8:15 a.m.	Chestnut Street

§ 327-7.2. Prohibited turns. [Added 4-23-2019 by Ord. No. O-19-009]

Name of Street	Direction of Travel	Prohibited Turns	Location
Grove Street	Both	Left	Driveways along entire length between Glenridge Avenue and Bloomfield Avenue

§ 327-8. No turn on red.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
Bell Street	South	Bloomfield Avenue, Monday through Friday, 8:00 a.m. to 4:00 p.m.
Bloomfield Avenue	North	Park Street
Bloomfield Avenue	South	Church Street
Grove Street	East	Walnut Street

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
Hillside Avenue	South	Orange Road, Monday through Friday, 8:00 a.m. to 4:00 p.m.
Maple Avenue	North	Bloomfield Avenue, 8:00 a.m. to 4:00 p.m.
Mount Hebron Road	Both	Valley Road, 8:00 a.m. to 4:00 p.m.
Normal Avenue	North	Upper Mountain Avenue
North Fullerton Avenue	East	Bloomfield Avenue
North Fullerton Avenue	West	Watchung Avenue
Orange Road	North	Washington Ave, 7:30 a.m. to 4:00 p.m.
Park Street	South	Bloomfield Avenue
South Fullerton Avenue	North	Bloomfield Avenue
Union Street	East	Harrison Avenue
Union Street	East	Orange Road
Valley Road	Both	Bloomfield Avenue
Valley Road	Both	Bellevue Avenue
Valley Road	Both	Mt. Hebron Road, 8:00 a.m. to 4:00 p.m.

§ 327-9. Stop intersections.

The following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign on	Direction of Travel	At Inter section of
Alexander Avenue	Both	Park Street
Alexander Avenue	Both	Valley Road
Appleton Place	Both	Valley Road
Ardsley Road	West	Grove Street
Baldwin Street	West	Glen Ridge Avenue
Bay Street	South	Glen Ridge Avenue
Bellaire Drive	West	Valley Road
Berkely Place	Both	North Mountain Avenue
Beverley Road	Both	Grove Street
Bradford Avenue	East	Upper Mountain Avenue
Brainard Street	East	Valley Road
Brookfield Road	East	Valley Road
Brooklawn Road	West	Orange Road

Stop Sign on	Direction of Travel	At Inter section of
Bruce Road	West	Valley Road
Brunswick Road	Both	Central Avenue
Brunswick Road	West	Valley Road
Buckingham Road	Both	Grove Street
Buckingham Road	West	Park Street
Burnside Street	South	Watchung Avenue
Cambridge Road	West	Grove Street
Canterbury Drive	West	Orange Road
Carey Court	East	Orange Road
Carlton Drive	South	Alexander Avenue
Caroline Road	East	Grove Street
Carriage Way	West	South Mountain Avenue
Cedar Avenue	West	Harrison Avenue
Central Avenue	Both	Chestnut Street
Central Avenue	Both	Valley Road
Central Avenue	East	Talbot Street
Central Avenue	South	Walnut Street
Charles Street	West	Harrison Avenue
Chester Road	West	Grove Street
Chestnut Street	East	Grove Street
Chestnut Street	West	Valley Road
Christopher Street	Both	Chestnut Street
Christopher Street	Both	Watchung Avenue
Christopher Street	South	Walnut Street
Church Street	Both	South Park Street
Clarewill Avenue	East	Grove Street
Clarewill Avenue	West	Park Street
Claridge Court	West	Grove Street
Clinton Avenue	Both	Gates Avenue
Clinton Avenue	Both	Union Street
Cloverhill Place	North	Claremont Avenue
Cloverhill Place	South	Glenridge Avenue
Club Road	West	Grove Street

Stop Sign on	Direction of Travel	At Inter section of
Club Street	East	Valley Road
Columbus Avenue	Both	Christopher Street
Columbus Avenue	Both	Grove Street
Columbus Avenue	Both	Montclair Avenue
Cooper Avenue	Both	Park Street
Cooper Avenue	East	Grove Street
Cooper Avenue	West	Valley Road
Cottage Place	North	Claremont Avenue
Depot Square	South	Walnut Street
Dodd Street	West	Grove Street
Draper Terrace	Both	Madison Avenue
Draper Terrace	West	Orange Road
Dryden Road	West	Grove Street
Eagle Rock Way	Both	Llewelyn Road
Edgecliff Road	South	Bradford Avenue
Edgemont Road	Both	Brookfield Road
Edgemont Road	Both	Watchung Avenue
Elmwood Avenue	East	Maple Avenue
Elmwood Avenue	West	Elm Street
Elston Road	Both	Norwood Avenue
Elston Road	West	Valley Road
Emerson Place	East	Valley Road
Enfield Avenue	Both	Hilltop Place
Erwin Park	West	Central Avenue
Essex Avenue	South	Chestnut Street
Euclid Place	West	Grove Street
Fairfield Street	Both	Fullerton Avenue
Fairview Place	East	Grove Street
Fernwood Avenue	Both	Norwood Avenue
Fernwood Avenue	West	Valley Road
Fidelity Place	East	Forest Street
Forest Street	Both	Chestnut Street
Forest Street	Both	Claremont Avenue

Stop Sign on	Direction of Travel	At Inter section of
Forest Street	Both	Walnut Street
Francis Place	South	Bloomfield Avenue
Franklin Avenue	West	Harrison Avenue
Frederick Street	Both	Essex Avenue
Fulton Street	West	Elm Street
Garfield Place	East	Valley Road
Gates Avenue	Both	Harrison Avenue
Gates Avenue	Both	South Mountain Avenue
George Street	North	Claremont Avenue
Glenridge Parkway	West	Grove Street
Glenwood Place	East	Valley Road
Glenwood Road	Both	Norwood Avenue
Glenwood Road	East	Park Street
Glenwood Road	West	Valley Road
Gordonhurst Avenue	Both	Grove Street
Gordonhurst Avenue	Both	North Fullerton Avenue
Gordonhurst Avenue	Both	Park Street
Gordonhurst Avenue	West	Valley Road
Graham Terrace	East	Harrison Avenue
Granada Place	West	Orange Road
Grandview Place	West	Grove Street
Gray Street	West	Grove Street
Greenwood Avenue	Both	Claremont Avenue
Greenwood Avenue	Both	Glenridge Avenue
Greenwood Avenue	North	Walnut Street
Greenwood Avenue	South	Lackawanna Place
Grove Terrace	West	Grove Street
Haddon Place	East	Grove Street
Haddon Place	West	Park Street
Harvard Street	West	Grove Street
Hawthorne Place	Both	Gates Avenue
Hawthorne Place	Both	Orange Road
Hawthorne Place	Both	South Fullerton Avenue

Stop Sign on	Direction of Travel	At Inter section of
Hawthorne Place	East	Elm Street
High Street	Both	Cedar Avenue
High Street	East	Orange Road
Highland Avenue	Both	Normal Avenue
Hilltop Place	West	High Street
Hitchcock Place	East	Orange Road
Holland Terrace	West	Valley Road
Hollywood Avenue	West	Orange Road
Homewood Way	West	Harrison Avenue
Howe Avenue	East	Harrison Avenue
Inness Place	West	Walnut Crescent
Inwood Avenue	Both	Grove Street
Inwood Avenue	Both	Norwood Avenue
Inwood Avenue	Both	Park Street
Inwood Avenue [Added 3-27-2023 by Ord. No. O-23-10]	West	Fernwood Avenue
Inwood Avenue	West	Valley Road
Irving Street	Both	Lincoln Street
Irving Street	South	Orange Road
James Street	Both	Central Avenue
James Street	Both	Midland Avenue
James Street	East	Park Street
James Street	West	Valley Road
Jerome Place	East	Valley Road
Kenneth Road	West	Grove Street
LLewellyn Road	West	South Mountain Avenue
Label Street	West	Montclair Avenue
Lackawanna Plaza	North	Glenridge Avenue
Lansing Place	East	Valley Road
Laurel Place	Both	Upper Mountain Avenue
Lexington Avenue	East	Maple Avenue
Lexington Avenue	West	Elm Street
Lincoln Avenue	West	Elm Street

Stop Sign on	Direction of Travel	At Inter section of
Linden Avenue	West	Orange Road
Llewellyn Road	Both	Harrison Avenue
Llewellyn Road	East	Orange Road
Lloyd Road	East	Undercliff Road
Lloyd Road	North	Bloomfield Avenue
Lorraine Avenue	Both	Park Street
Lorraine Avenue	East	Grove Street
Macopin Avenue	East	Park Street
Macopin Avenue	West	Valley Road
Madison Avenue	North	Lincoln Street
Madison Avenue	South	Washington Avenue
Maple Avenue	South	Lincoln Street
Marion Road	East	Norwood Avenue
Marion Road	West	Valley Road
Marquette Road	South	Alexander Avenue
McDonough Street	East	Christopher Street
McDonough Street	East	Grove Street
McDonough Street	West	Christopher Street
Melrose Place	Both	Eagle Rock Way
Melrose Place	Both	Harrison Avenue
Melrose Place	East	Orange Road
Midland Avenue	Both	Chestnut Street
Midland Avenue	Both	Walnut Street
Midland Avenue	North	Watchung Avenue
Midland Avenue	South	Bloomfield Avenue
Mission Street	North	Bloomfield Avenue
Montague Place	Both	Midland Avenue
Montague Place	East	Park Street
Montague Place	West	Valley Road
Montclair Avenue	Both	Chestnut Street
Montclair Avenue	Both	Watchung Avenue
Montclair Avenue	South	Label Street
Morningside Avenue	South	Watchung Avenue

Stop Sign on	Direction of Travel	At Inter section of
Mount Hebron Road	East	Grove Street
Mount Vernon Road	West	Grove Street
Mountain Terrace	East	Upper Mountain Avenue
Mountainview Place	East	Valley Road
Mt. Hebron Road	Both	Upper Mountain Avenue
Munn Street	West	Park Street
Myrtle Avenue	East	Orange Road
Nassau Road	West	Valley Road
New Street	North	Bloomfield Avenue
Nishuane Road	North	Cedar Avenue
Norman Road	East	Norwood Avenue
Norman Road	West	Valley Road
North Fullerton Avenue	Both	Chestnut Street
North Fullerton Avenue	Both	Walnut Street
North Fullerton Avenue	North	Rand Place
North Fullerton Avenue	North	Wildwood Avenue
North Mountain Avenue	Both	Bellevue Avenue
North Mountain Avenue	Both	Watchung Avenue
North Willow Street	Both	Claremont Avenue
North Willow Street	Both	Glenridge Avenue
North Willow Street	North	Walnut Street
Northview Avenue	Both	Cooper Avenue
Northview Avenue	North	Bellevue Avenue
Northview Avenue	South	Valley Road
Norwood Avenue	Both	Lorraine Avenue
Norwood Avenue	South	Bellevue Avenue
Oak Place	West	Forest Street
Oakwood Avenue	East	Norwood Avenue
Oakwood Avenue	West	Valley Road
Orange Road	East	Elm Street
Orange Road	South	Llewellyn Road
Orange Road West	Both	Orange Road
Orchard Court	West	High Street

Stop Sign on	Direction of Travel	At Inter section of
Overlook Road	Both	Park Street
Overlook Road	East	Grove Street
Overlook Road	West	Norwood Avenue
Oxford Street	Both	Grove Street
Oxford Street	West	Christopher Street
Park Street	Both	Watchung Avenue
Park Street	North	Mount Hebron Road
Parkhurst Place	North	Bloomfield Avenue
Parkway	East	Valley Road
Pine Street	Both	Claremont Avenue
Pine Street	Both	Glenridge Avenue
Pine Street	North	Walnut Street
Pleasant Avenue	North	Cedar Avenue
Pleasant Way	East	Orange Road
Plymouth Street	Both	Orange Road
Plymouth Street	East	South Fullerton Avenue
Porter Place	Both	Harrison Avenue
Porter Place	East	Orange Road
Portland Place	West	Midland Avenue
Portland Place	West	Valley Road
Potter Court	East	Valley Road
Prescott Avenue	West	Grove Street
Prospect Avenue	Both	Claremont Avenue
Rand Place [Repealed 11-27-2001 by Ord. No. 01-49]		
Riverview Drive	South	Alexander Avenue
Rockledge Road	North	Bloomfield Avenue
Rosedale Avenue	West	Orange Road
Rosewell Terrace	West	Walnut Crescent
Rydal Place	East	Valley Road
Saint Luke's Place	North	Bloomfield Avenue
Skytop Terrace	South	Alexander Avenue
Southern Terrace	West	Harrison Avenue
Squire Hill Road	North	Alexander Avenue

Stop Sign on	Direction of Travel	At Inter section of
Stanford Place	West	Grove Street
Stephen Street	West	Grove Street
Stonehenge Road	North	Alexander Avenue
Summit Avenue	Both	Park Street
Summit Avenue	East	Grove Street
Sunset Park	Both	Norwood Avenue
Sunset Park	East	Park Street
Sutherland Road	East	Harrison Avenue
The Crescent	East	South Fullerton Avenue
The Crescent	East	South Fullerton Avenue
Tremont Place	Both	Cambridge Road
Tremont Place	Both	Tuxedo Road
Tuxedo Road	West	Grove Street
Union Street	Both	Gates Avenue
Union Street	Both	South Fullerton Road
Union Street	Both	South Mountain Avenue
Union Street	East	Elm Street
Upper Mountain Avenue	South	Bloomfield Avenue
Van Vleck Street	Both	North Mountain Avenue
Van Vleck Street	East	Valley Road
Vera Place	West	Valley Road
Vincent Place	North	Walnut Street
Vincent Place	South	Claremont Avenue
Virginia Avenue	Both	Franklin Avenue
Virginia Avenue	Both	High Street
Virginia Avenue	East	Enfield Avenue
Virginia Avenue	West	Harrison Avenue
Walden Place	North	Bloomfield Avenue
Walnut Crescent	North	Bay Avenue
Walnut Crescent	South	Claremont Avenue
Walnut Street	East	Walnut Crescent
Walnut Street	West	Valley Road
Ward Place	East	Orange Road

Stop Sign on	Direction of Travel	At Inter section of
Warfield Street	Both	Highland Avenue
Warfield Street	East	Upper Mountain Avenue
Warman Street	East	Harrison Avenue
Warren Place	Both	Eagle Rock Way
Warren Place	Both	Harrison Avenue
Warren Place	East	Orange Road
Washington Street	East	New Street
Washington Street	West	Elm Street
Watchung Avenue	West	Upper Mountain Avenue
Watchung Plaza	North	Watchung Avenue
Waterbury Road	South	Watchung Avenue
Wellesley Road	East	Norwood Avenue
Wellesley Road	West	Valley Road
Wendover Road	East	Central Avenue
Wendover Road	West	Valley Road
Wildwood Avenue	Both	Grove Street
Wildwood Avenue	Both	Park Street
Wildwood Avenue	West	Valley Road
Willard Place	East	Grove Street
William Street	West	Valley Road
Willowdale Avenue	Both	Lincoln Street
Willowdale Avenue	Both	Linden Avenue
Willowdale Avenue	Both	Washington Avenue
Willowdale Avenue	North	Woodland Avenue
Willowmere Avenue	West	Orange Road
Windermere Road	West	Grove Street
Windsor Place	Both	Highland Avenue
Windsor Place	East	Upper Mountain Avenue
Woodland Avenue	West	Maple Avenue
Yantacaw Brook Road	North	Alexander Avenue

§ 327-9.1. Multiway stop intersections. [Added 1-6-2009 by Ord. No. 08-50]

The following described locations are hereby designated as multiway stop intersections, and stop signs shall be installed on both the major and minor street as follows:

Major Street**Minor Street**

Bellevue Avenue [Added 12-29-2009 by
Ord. No. O-076-09] North Mountain Avenue

Cedar Avenue High Street

Central Avenue [Added 8-20-2019 by
Ord. No. O-19-027] Brunswick Road

Chestnut Street [Added 7-18-2023 by
Ord. No. O-23-19] Central Avenue

Chestnut Street [Added 2-5-2013 by Ord.
No. O-13-01] Forest Street

Chestnut Street [Added 5-6-2025 by Ord.
No. O-25-15] Midland Avenue

Chestnut Street North Fullerton Avenue

Claremont Avenue [Added 2-21-2023 by
Ord. No. O-23-07] Forest Street

Claremont Avenue [Added 4-8-2025 by
Ord. No. O-25-07] Greenwood Avenue

Claremont Avenue [Added 12-16-2025 by
Ord. No. O-25-56] North Willow Street

Claremont Avenue [Added 8-25-2015 by
Ord. No. O-15-022] Pine Street

Franklin Avenue [Added 4-12-2023 by
Ord. No. O-23-13] Virginia Avenue

Gates Avenue [Added 8-12-2025 by Ord.
No. O-25-31] Clinton Avenue

Gates Avenue [Added 7-22-2025 by Ord.
No. O-25-20] Hawthorne Place

Gates Avenue [Added 9-1-2009 by Ord.
No. O-049-09] Orange Road

Gates Avenue [Added 9-1-2009 by Ord.
No. O-049-09] South Fullerton Avenue

Gates Avenue [Added 2-20-2018 by Ord.
No. O-18-005] Union Street

Glenridge Avenue [Added 7-18-2023 by
Ord. No. O-23-21] Forest Street

Glenridge Avenue [Added 4-5-2022 by
Ord. No. O-22-04] North Willow Avenue

Harrison Avenue [Added 5-19-2026 by
Ord. No. O-26-13] Cedar Avenue

Major Street**Minor Street**Harrison Avenue [Added 4-8-2025 by
Ord. No. O-25-07]

Gates Avenue

Harrison Avenue [Added 4-8-2025 by
Ord. No. O-25-07]

Llewelyn Road

Harrison Avenue [Added 9-30-2025 by
Ord. No. O-25-39]

Porter Place

Lincoln Street [Added 12-17-2024 by
Ord. No. O-24-37]

Irving Street

Lorraine Avenue [Added 12-16-2025 by
Ord. No. O-25-54]

Norwood Avenue

North Mountain Avenue [Added
6-14-2011 by Ord. No. O-11-40]

Berkeley Place

North Mountain Avenue [Added
2-19-2019 by Ord. No. O-19-004]

Van Vleck Street

Park Street [Added 9-24-2024 by Ord.
No. O-24-30]

Alexander Avenue

Park Street

Lorraine Avenue

South Fullerton Avenue [Added
2-20-2018 by Ord. No. O-18-006]

Union Street

South Mountain Avenue [Added
11-12-2025 by Ord. No. O-25-51]

Gates Avenue

South Mountain Avenue [Added
1-19-2016 by Ord. No. O-15-044]

Union Street

Union Street [Added 9-26-2023 by Ord.
No. O-23-34]

Clinton Avenue

Upper Mountain Avenue [Added
4-24-2024 by Ord. No. O-24-11]

Bellevue Avenue

Upper Mountain Avenue [Added
4-10-2024 by Ord. No. O-24-08]

Jerome Place/Seneca Place

Upper Mountain Avenue [Added
7-22-2025 by Ord. No. O-25-20]

Watchung Avenue

Walnut Street [Added 12-17-2024 by
Ord. No. O-24-37]

Forest Street

Walnut Street [Added 5-6-2025 by Ord.
No. O-25-15]

Midland Avenue

Walnut Street [Added 11-17-2014 by
Ord. No. O-14-042]

North Fullerton Avenue

Washington Avenue [Added 8-12-2025
by Ord. No. O-25-31]

Willowdale Avenue

§ 327-10. Yield intersections.

The following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of (Reserved)
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§ 327-11. Speed limits.

Speed limits are hereby established upon the following described streets or parts thereof:

Name of Street	Speed Limit (mph)	Location
Bellevue Avenue	25	Entire length
Bloomfield Avenue	25	From St. Lukes Place to Glenridge town line
Bloomfield Avenue	20	Between Lloyd Road and Upper Mountain Avenue, trucks and buses only
Bradford Avenue	25	Between Upper Mountain Avenue and Highland Avenue
Grove Street [Added 11-13-2017 by Ord. No. O-17-037; amended 12-19-2023 by Ord. No. O-23-39]]	25	Entire length
Harrison Avenue	25	Entire length
Lorraine Avenue	25	Entire length
North Fullerton Avenue	25	Entire length
North Mountain Avenue	25	Entire length
Park Street	25	Entire length
South Fullerton Avenue	25	Entire length
South Mountain Avenue	25	Entire length
Undercliff Road	25	Entire length
Upper Mountain Avenue [Amended 12-19-2023 by Ord. No. O-23-39]]	25	From a point 300 feet north of Jerome Place to Little Falls town line
Upper Mountain Avenue [Repealed 12-19-2023 by Ord. No. O-23-39]]		

Name of Street	Speed Limit (mph)	Location
Upper Mountain Avenue [Amended 12-19-2023 by Ord. No. O-23-39]	25	From Bloomfield Avenue to a point 300 feet north of Jerome Place
Valley Road [Added 9-24-2024 by Ord. No. O-24-31]	25	Entire length

- A. Speed limits for all other Township-owned streets not listed above are hereby established to be 25 miles per hour in accordance with N.J.S.A. 39:4-98, unless indicated otherwise within designated school zones. [Added 12-19-2023 by Ord. No. O-23-39]
- B. Regulatory and warning signs, conforming to the current Manual on Uniform Traffic Control Devices (MUTCD), shall be erected and maintained to effect the above-designated speed limits. [Added 12-19-2023 by Ord. No. O-23-39]

§ 327-11.1. Speed limits: school zones. [Added 12-5-2023 by Ord. No. O-23-37; amended 6-11-2024 by Ord. No. O-24-21]

In accordance with the provisions of N.J.S.A. 39:4-8a, school speed limits are hereby established upon the described streets or parts thereof while flashing school speed limit signs are operating, during recess, when the presence of children is clearly visible from the roadway, or while children are going to or leaving school during opening or closing hours.

Name of Street	Limits	Direction of Traffic	Speed Limits (mph)
Bellaire Drive	Valley Road to Central Avenue	East and west	20
Bellevue Avenue	From a point 340 feet west of Valley Road to Grove Street	East and west	20
Belvidere Place	Chestnut Street to Bellaire Drive	North and south	20
Berkeley Place	Upper Mountain Avenue to Valley Road	East and west	20
Bloomfield Avenue	Glen Ridge Town Line to Mission Street	East and west	20
Bloomfield Avenue	South Fullerton Avenue to a point 235 feet west of North Willow Street	East and west	20
Bloomfield Avenue	Upper Mountain Avenue to Prospect Avenue	East and west	20
Brainard Street	College Avenue to Valley Road	East and west	20
Brunswick Road	Valley Road to Midland Avenue	East and west	20

Name of Street	Limits	Direction of Traffic	Speed Limits (mph)
Cedar Avenue	Harrison Avenue to Orange Road	East and west	20
Central Avenue	Chestnut Street to Wendover Road	North and south	20
Chestnut Street	Valley Road to Essex Avenue	East and west	20
Christopher Street	Walnut Street to Chestnut Street	North and south	20
Church Street	Trinity Place to Orange Road	East and west	20
Claremont Avenue	Midland Avenue to Forest Street	East and west	20
College Avenue	Mount Hebron Road to Brainard Street	North and south	20
Cottage Place	Munn Street to Claremont Avenue	North and south	20
Duryea Road	Lorraine Avenue to Inwood Avenue	North and south	20
Edgemont Road	Berkeley Place to Parkway	North and south	20
Elm Street	From a point 140 feet south of Bloomfield Avenue to Elmwood Avenue	North and south	20
Forest Street	Oak Place to Chestnut Street	North and south	20
Glenridge Avenue	Bloomfield Avenue to Forest Street	East	20
Grove Street	Cooper Avenue to Fairview Place	North and south	20
Grove Street	From a point 250 feet south of Walnut Street to Cambridge Road	North and south	20
Hartley Street	Washington Street to Bloomfield Avenue	North	20
High Street	Orange Road to Virginia Avenue	North and south	20
Hillside Avenue	South Mountain Avenue to Orange Road	East and west	20
Label Street	Montclair Avenue to Christopher Street	East and west	20
Llewellyn Road	Clinton Avenue to South Mountain Avenue	East and west	20
Llewellyn Road	Harrison Avenue to Orange Road	East and west	20
Lloyd Road	Hoburg Place to Bloomfield Avenue	North and south	20
Lorraine Avenue	Grove Street to a point 280 feet west of Valley Road	East and west	20
Maple Avenue	Bloomfield Avenue to Lincoln Street	North and south	20
Midland Avenue	James Street to Brunswick Road	North and south	20

Name of Street	Limits	Direction of Traffic	Speed Limits (mph)
Montague Place	Midland Avenue to Park Street	East and west	20
Montclair Avenue	Label Street to Chestnut Street	North and south	20
Mount Hebron Road	Highland Avenue to a point 215 feet east of Valley Road	East and west	20
Munn Street	Park Street to North Fullerton Avenue	East and west	20
North Fullerton Avenue	Bloomfield Avenue to Watchung Avenue	North and south	20
North Mountain Avenue	Berkeley Place to Watchung Avenue	North and south	20
Norwood Avenue	Bellevue Avenue to Inwood Avenue	North and south	20
Orange Road	Plymouth Street to Bloomfield Avenue	North and south	20
Orange Road	Gates Avenue to High Street	North and south	20
Oxford Street	Tremont Place to Christopher Street	East and west	20
Park Street	Summit Avenue to Buckingham Road	North and south	20
Park Street	Munn Street to a point 1,900 feet north of Chestnut Street	North and south	20
Parkhurst Place	Lloyd Road to Rockledge Road	East and west	20
Pine Street	Bloomfield Avenue to Glenridge Avenue	North and south	20
Saint Lukes Place	Hillside Avenue to Bloomfield Avenue	North and south	20
South Mountain Avenue	From a point 400 feet south of Llewellyn Road to a point 400 feet north of Llewellyn Road	North and south	20
Upper Mountain Avenue	From a point 400 feet south of Mount Hebron Road to a point 400 feet north of Mount Hebron Road	North and south	20
Valley Road	Church Street to a point 250 feet east of Church Street	North and south	20
Valley Road	Cooper Avenue to Oakwood Avenue	North and south	20
Valley Road	Macopin Avenue to Brainard Street	North and south	20
Valley Road	William Street to Central Avenue	North and south	20
Walnut Street	Depot Square to Pine Street	East and west	20

Name of Street	Limits	Direction of Traffic	Speed Limits (mph)
Warren Place	Harrison Avenue to Orange Road	East and west	20
Washington Street	New Street to Elm Street	East and west	20

- A. Roadways under the jurisdiction of Essex County are subject to Essex County concurrence.
- B. New speed limits shall not take effect until corresponding signs are posted.

§ 327-12. Lane use reservations.

The following are designated lane reservations, and all vehicles shall move as described below:

Intersection (Location)

Movement

Bellevue Avenue at Upper Mountain Avenue [Added 12-9-2003 by Ord. No. 03-74]	Westbound left lane of Bellevue Avenue reserved for left turn only
Bellevue Avenue at Upper Mountain Avenue [Added 12-9-2003 by Ord. No. 03-74]	Westbound right lane of Bellevue Avenue reserved for right turn only
Bloomfield Avenue at North/South Mountain Avenue [Added 11-13-2006 by Ord. No. 06-59]	Eastbound left lane of Bloomfield Avenue reserved for left turn only
Bloomfield Avenue at North/South Mountain Avenue [Added 11-13-2006 by Ord. No. 06-59]	Westbound left lane of Bloomfield Avenue reserved for left turn only
Claremont Avenue at Grove Street [Added 4-6-2010 by Ord. No. O-10-021]	Westbound left lane of Claremont Avenue reserved for left turn only
Claremont Avenue at Grove Street [Added 7-20-2010 by Ord. No. O-10-030]	Eastbound left lane of Claremont Avenue reserved for left turn only
Glenridge Avenue at Grove Street [Added 11-13-2006 by Ord. No. 06-58]	Eastbound left lane of Glenridge Avenue reserved for left turn only
Grove Street at Bellevue Avenue [Added 8-18-2009 by Ord. No. O-041-09]	Northbound left lane of Grove Street reserved for left turn only
Grove Street at Bellevue Avenue [Added 8-18-2009 by Ord. No. O-041-09]	Southbound left lane of Grove Street reserved for left turn only
Grove Street at Watchung Avenue [Added 8-18-2009 by Ord. No. O-041-09]	Northbound left lane of Grove Street reserved for left turn only
Grove Street at Watchung Avenue [Added 8-18-2009 by Ord. No. O-041-09]	Southbound left lane of Grove Street reserved for left turn only
Lloyd Road at Bloomfield Avenue [Added 12-9-2003 by Ord. No. 03-73]	Northbound left lane of Lloyd Road reserved for left turn only

**Intersection
(Location)****Movement**Lloyd Road at Bloomfield Avenue [Added
12-9-2003 by Ord. No. 03-73]Northbound right lane of Lloyd Road reserved for
right turn onlyNormal Avenue at Upper Mountain Avenue
[Amended 12-9-2003 by Ord. No. 03-75]Eastbound left lane of Normal Avenue reserved for
left turn onlyNormal Avenue at Upper Mountain Avenue
[Amended 12-9-2003 by Ord. No. 03-75]Westbound left lane of Normal Avenue reserved for
left turn onlyNorth Mountain Avenue at Bloomfield Avenue
[Added 11-13-2006 by Ord. No. 06-59]Southbound left lane of North Mountain Avenue
reserved for left turn onlyOrange Road at Cedar Avenue [Amended
12-9-2003 by Ord. No. 03-75]Northbound left lane of Orange Road reserved for left
turn onlyOrange Road at Cedar Avenue [Amended
12-9-2003 by Ord. No. 03-75]Northbound right lane of Orange Road reserved for
through movement onlyOrange Road at Elm Street [Amended
12-9-2003 by Ord. No. 03-75]Northbound lane of Orange Road reserved for right
turn only

Orange Road and Orange Road West [Repealed 12-9-2003 by Ord. No. 03-75]

Orange Road West at Cedar Avenue [Added
12-9-2003 by Ord. No. 03-75]Westbound left lane of Cedar Avenue reserved for left
turn onlyOrange Road West at Cedar Avenue [Added
12-9-2003 by Ord. No. 03-75]Westbound right lane of Cedar Avenue reserved for
through movement onlySouth Mountain Avenue at Bloomfield Avenue
[Added 11-13-2006 by Ord. No. 06-59]Northbound left lane of South Mountain Avenue
reserved for left turn onlyWatchung Plaza at Watchung Avenue and Park
Street [Added 4-19-2022 by Ord. No.
O-22-08]Entire northbound lane of Watchung Plaza reserved
for right turn only; no through movement permitted**§ 327-13. Through trucks over 4 tons prohibited. [Amended 9-6-2011 by Ord. No. O-11-58;
10-16-2012 by Ord. No. O-12-55]**

Trucks in excess of four tons' gross weight may not travel on the following streets or parts of streets, except for the purpose of receiving loads or making deliveries:

Name of Street**Limits**

Berkeley Place

North Mountain Avenue to Upper Mountain Avenue

Claremont Avenue

Entire length

Cloverhill Place

Entire length

Harrison Avenue

From Cedar Avenue to Union Street

High Street

Entire length

Llewellyn Road

Entire length

Lorraine Avenue

Entire length

Name of Street**Limits**

Madison Avenue

Entire length

Normal Avenue

Entire length

Orange Road

From Church Street to Bloomfield Avenue

Roswell Terrace

Entire length

South Mountain Avenue

Entire length

South Park Street

From Church Street to Bloomfield Avenue

Undercliff Road

Entire length

Upper Mountain Avenue

From Bellevue Avenue to Bloomfield Avenue

ARTICLE IIA
Pedestrian Control
[Added 6-11-2002 by Ord. No. 02-18]

§ 327-13.1. Mid-block crosswalks.

The following described locations are hereby designated as a mid-block crosswalks:

Name of Street	Location
Bellevue Avenue [Added 5-24-2016 by Ord. No. O-16-015]	From a point 450 feet east of Norwood Avenue to a point 10 feet east therefrom
Maple Avenue [Added 5-24-2016 by Ord. No. O-16-015]	From a point 625 feet south of Bloomfield Avenue to a point 10 feet south therefrom
Normal Avenue	From a point 370 feet west of Valley Road to a point 10 feet westerly therefrom
North Fullerton Avenue [Added 10-4-2011 by Ord. No. O-11-61]	From a point 190 feet south of Chestnut Street to a point 10 feet south therefrom
Orange Road [Added 12-7-2010 by Ord. No. O-10-069]	From a point 336 feet north of Church Street/Hillside Avenue to a point 10 feet north therefrom
Park Street [Added 9-13-2005 by Ord. No. 05-44]	From a point 270 feet north of Bloomfield Avenue to a point 10 feet northerly therefrom
Upper Mountain Avenue [Added 4-10-2007 by Ord. No. 07-12]	From a point 1,187 feet north of Laurel Place to a point 10 feet north therefrom

ARTICLE III
Parking, Standing and Stopping

§ 327-14. Regulations not exclusive.

(Reserved)

§ 327-14.1. (Reserved)¹⁷⁶

§ 327-14.2. Parking exception for narrow dead-end streets. [Added 11-12-2002 by Ord. No. 02-48]

No person shall park a vehicle upon any dead-end street when the width of the roadway does not exceed 22 feet. A dead-end street is defined as a street that provides property access only, with only one means of access or egress, i.e., no through traffic.

§ 327-15. Overnight parking.

- A. Overnight parking is prohibited except as provided in the schedule below. Where prohibited, no person shall park a vehicle on any street between the hours of 2:00 a.m. and 5:00 a.m. of any day, except physicians on emergency calls. Signs shall be posted at the Township limits. **[Amended 6-9-2009 by Ord. No. O-030-09; 8-18-2009 by Ord. No. O-045-09]**

Name of Street	Side	Days	Location
Chestnut Street [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Tuesday and Thursday	North Fullerton Avenue to Essex Avenue
Chestnut Street [Added 5-6-2025 by Ord. No. O-25-16]	South	Tuesday and Thursday	North Fullerton Avenue to Essex Avenue
Claremont Avenue [Added 5-6-2025 by Ord. No. O-25-16]	South	All, except Wednesday and Thursday	North Fullerton Avenue to Grove Street
Claremont Avenue [Added 5-6-2025 by Ord. No. O-25-16]	South	All, except Wednesday and Thursday	Pine Street to George Street
Club Street [Added 12-16-2025 by Ord. No. O-25-62]	South	All	Valley Road to North Mountain Avenue
Elm Street [Added 6-11-2002 by Ord. No. 02-19]	East	All, except Friday	From a point 120 feet north of Elmwood Avenue to a point 355 feet north therefrom

176. Editor's Note: Former § 327-14.1, Parking on narrow streets, added 2-13-2001 by Ord. No. 01-04, as amended, was repealed 1-8-2008 by Ord. No. 07-57.

Name of Street	Side	Days	Location
Elm Street [Added 6-11-2002 by Ord. No. 02-19]	East	All, except Friday	From a point 75 feet north of Fulton Street to a point 144 feet north therefrom
Elm Street [Added 6-11-2002 by Ord. No. 02-19]	West	All, except Monday	From a point 128 feet north of Hawthorne Place to a point 334 feet north therefrom
Elm Street [Added 6-11-2002 by Ord. No. 02-19]	West	All, except Monday	From a point 48 feet south of Union Street to a point 167 feet north therefrom
Elmwood Avenue [Added 5-6-2025 by Ord. No. O-25-16]	South	All, except Monday and Friday	Elm Street to Maple Avenue
Elmwood Avenue [Added 5-6-2025 by Ord. No. O-25-16]	North	Monday and Friday	Elm Street to Maple Avenue
Forest Street [Added 8-18-2009 by Ord. No. O-045-09]	Both	All	From Walnut Street North to Public Works Yard
Forest Street [Added 5-6-2025 by Ord. No. O-25-16]	East	All, except Tuesday and Wednesday	Claremont Avenue to Walnut Street
Forest Street [Added 5-6-2025 by Ord. No. O-25-16]	West	Tuesday and Wednesday	Claremont Avenue to Walnut Street
Fulton Street [Added 12-16-2025 by Ord. No. O-25-62]	South	All	Elm Street to New Street
Gates Avenue [Added 5-6-2025 by Ord. No. O-25-16]	East	Monday and Friday	Hawthorne Place to Union Street
Gates Avenue [Added 5-6-2025 by Ord. No. O-25-16]	West	All, except Monday and Friday	Hawthorne Place to Union Street
George Street [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Wednesday and Thursday	Claremont Avenue to Glen Ridge town line
Glenridge Avenue [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Tuesday and Wednesday	Grove Street to Glen Ridge town line

Name of Street	Side	Days	Location
Greenwood Avenue [Added 5-6-2025 by Ord. No. O-25-16]	West	All, except Tuesday and Thursday	Glenridge Avenue to Claremont Avenue
Hawthorne Place [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Tuesday and Thursday	Gates Avenue to Elm Street
Hawthorne Place [Added 5-6-2025 by Ord. No. O-25-16]	South	Tuesday and Thursday	Gates Avenue to Elm Street
Lexington Avenue [Added 5-6-2025 by Ord. No. O-25-16]	North	Tuesday and Thursday	Elm Street to Maple Avenue
Lexington Avenue [Added 5-6-2025 by Ord. No. O-25-16]	South	All, except Tuesday and Thursday	Elm Street to Maple Avenue
Lloyd Road	East	All	From 154 feet south of Bloomfield Avenue south for 512 feet
Maple Avenue [Added 5-6-2025 by Ord. No. O-25-16]	East	Monday and Friday	Monroe Place to Bloomfield Avenue
Maple Avenue [Added 5-6-2025 by Ord. No. O-25-16]	West	All, except Monday and Friday	Monroe Place to Bloomfield Avenue
Midland Avenue [Added 5-6-2025 by Ord. No. O-25-16]	East	All, except Tuesday and Thursday	Portland Place to James Street
Midland Avenue [Added 5-6-2025 by Ord. No. O-25-16]	West	Tuesday and Thursday	Portland Place to James Street
Mission Street [Added 6-26-2007 by Ord. No. 07-32]	East	All, except Wednesday	Entire length
Mission Street [Added 6-26-2007 by Ord. No. 07-32]	West	Wednesday	Entire length
Monroe Place [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Tuesday and Thursday	Maple Avenue to Willowdale Avenue

Name of Street	Side	Days	Location
Monroe Place [Added 5-6-2025 by Ord. No. O-25-16]	South	Tuesday and Thursday	Maple Avenue to Willowdale Avenue
Myrtle Avenue [Added 11-10-2008 by Ord. No. 08-38]	North	All, except Wednesday	From a point 65 feet west of Trinity Place to a point 119 feet west therefrom
Myrtle Avenue [Added 11-10-2008 by Ord. No. 08-38]	South	Wednesday	From a point 65 feet west of Trinity Place to a point 119 feet west therefrom
New Street [Added 6-26-2007 by Ord. No. 07-32]	East	All, except Wednesday	Entire length
New Street [Added 6-26-2007 by Ord. No. 07-32]	West	Wednesday	Entire length
North Fullerton Avenue [Added 9-23-2003 by Ord. No. 03-63]	East	All	From a point 1,120 feet north of Chestnut Street to a point 300 feet therefrom
North Fullerton Avenue	East	Thursday	From Claremont Avenue to Munn Street
North Fullerton Avenue	West	All, except Thursday	From Claremont Avenue to Munn Street
North Willow Street [Added 5-6-2025 by Ord. No. O-25-16]	East	All, except Tuesday and Thursday	Glenridge Avenue to Walnut Street
North Willow Street [Added 5-6-2025 by Ord. No. O-25-16]	West	Tuesday and Thursday	Glenridge Avenue to Walnut Street
Orange Road [Added 8-3-2010 by Ord. No. O-10-042; amended 11-12-2025 by Ord. No. O-25-42]	East	Wednesday	From a point 192 feet south of Bloomfield Avenue to Church Street, excluding bus stop area
Orange Road [Added 5-18-2010 by Ord. No. O-10-025; 11-12-2025 by Ord. No. O-25-42]	West	All, except Wednesday	From Bloomfield Avenue to a point 693 feet south therefrom, excluding bus stop area
Pine Street	East	All, except Thursday	From Claremont Avenue to Glenridge Avenue
Pine Street	West	Thursday	From Claremont Avenue to Glenridge Avenue

Name of Street	Side	Days	Location
Plymouth Street	North	All, except first Monday of every month	From intersection with Trinity Place to South Fullerton
Prospect Avenue [Added 2-4-2003 by Ord. No. 03-1]	Both	All	From Bloomfield Avenue to Claremont Avenue
Roosevelt Place	South	Thursday	Entire length
Sherman Street [Added 5-6-2025 by Ord. No. O-25-16]	South	All, except Tuesday and Wednesday	Pine Street to a point 220 feet east therefrom
South Fullerton Avenue	West	All, except Thursday	From Plymouth Street to Union Street
St. Luke's Place	East	Wednesday	From southeast corner of No. 22 St. Luke's Place to Bloomfield Avenue
St. Luke's Place	West	All, except Wednesday	From southeast corner of No. 22 St. Luke's Place to Bloomfield Avenue
Talbot Street [Added 6-26-2007 by Ord. No. 07-27]	North	Wednesday	Entire length
Talbot Street [Added 6-26-2007 by Ord. No. 07-27]	South	All, except Wednesday	Entire length
The Crescent	South	All, except second Monday of every month	From Trinity Place to South Fullerton Avenue
Trinity Place	West	All, except second Monday of every month	From Church Street to Plymouth Street
Union Street	North	Wednesday	From South Fullerton Avenue to Elm Street
Union Street	South	All, except Wednesday	From South Fullerton Avenue to Elm Street
Walnut Parkway [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Wednesday and Thursday	Entire length
Walnut Parkway [Added 5-6-2025 by Ord. No. O-25-16]	South	Wednesday and Thursday	Entire length

Name of Street	Side	Days	Location
Walnut Street [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Wednesday and Thursday	Grove Street to Walnut Crescent
Walnut Street [Added 5-6-2025 by Ord. No. O-25-16]	North	All, except Wednesday and Thursday	Valley Road to North Willow Street
Walnut Street [Added 5-6-2025 by Ord. No. O-25-16]	South	Wednesday and Thursday	Grove Street to Walnut Crescent
Walnut Street [Added 5-6-2025 by Ord. No. O-25-16]	South	Wednesday and Thursday	Valley Road to North Willow Street
Warman Street [Added 5-19-2026 by Ord. No. O-26-19]	North	All	Entire length
Wheeler Street [Added 5-6-2025 by Ord. No. O-25-16]	East	Monday and Friday	Monroe Place to Woodland Avenue
Wheeler Street [Added 5-6-2025 by Ord. No. O-25-16]	West	All, except Monday and Friday	Monroe Place to Woodland Avenue
William Street [Added 6-26-2007 by Ord. No. 07-27]	North	Wednesday	Entire length
William Street [Added 6-26-2007 by Ord. No. 07-27]	South	All except Wednesday	Entire length
Willowdale Avenue [Added 5-6-2025 by Ord. No. O-25-16]	East	Tuesday and Friday	Woodland Avenue to Lincoln Street
Willowdale Avenue [Added 5-6-2025 by Ord. No. O-25-16]	West	All, except Tuesday and Friday	Woodland Avenue to Lincoln Street
Woodland Avenue [Added 5-6-2025 by Ord. No. O-25-16]	North	Tuesday and Friday	Maple Avenue to Wheeler Street
Woodland Avenue [Added 5-6-2025 by Ord. No. O-25-16]	South	All, except Tuesday and Friday	Maple Avenue to Wheeler Street

- B. Parking permits pursuant to this section shall be issued to an applicant who has certified in writing to the Parking Utility that he or she is a resident of a property which abuts a street designated in the

schedule in Subsection A for overnight street parking, other than on South Fullerton Avenue, and that there is no place on such property for the overnight parking of his or her vehicle. A permit issued pursuant to this section shall entitle the holder thereof to park overnight only on the street which is abutted by his or her property, except in the case of Roosevelt Place residents who may apply for such permits and who shall utilize thereafter the overnight parking area provided for on South Fullerton Avenue and Roosevelt Place in accordance with the schedule in Subsection A. No more than one permit shall be issued to residents of the same household. The Parking Utility may revoke a permit upon proof that the certification made on issuance is no longer valid. **[Amended 11-12-2025 by Ord. No. O-25-42]**

- C. The fee for the permit shall be the same as that charged for a night permit issued in accordance with the Code of the Township of Montclair, Chapter 230, Parking Lots.
- D. The permit issued pursuant to this section shall entitle the holder to park on the streets, except in prohibited areas, in the manner set forth in Subsection B above and in all Township of Montclair parking lots which permit overnight parking.
- E. Any vehicle which is found by the Police Department to be parked without a valid permit in an area designated in the schedule in Subsection A hereof, contrary to the provisions of this section, may be towed and removed by the police and all costs of such towing, removal and storage shall be paid by the owner of the vehicle.
- F. Notwithstanding the foregoing provisions of this section, Township residents may purchase from the Township overnight parking permits for the sum of \$5 per night. Overnight parking permits shall be in the form of digital permits (the vehicle's license plate), or such other form determined by the Township, and each permit shall allow the permit holder to park an automobile on any street in the Township during the hours of 2:00 a.m. through 5:00 a.m., except on those streets where parking is prohibited under § 327-16 or any other provision of the Township Code. **[Added 6-9-2009 by Ord. No. O-030-09; amended 12-18-2012 by Ord. No. O-12-68; 11-12-2025 by Ord. No. O-25-42]**
- G. The Township Council may, by resolution, designate any street, or a portion of any street, to which the provisions of Subsection F, regarding overnight parking permits, shall not apply. Any such resolution shall take effect upon at least 10 days' advance notice to all property owners whose properties about the street or section of the street which is the subject of the resolution. **[Added 6-9-2009 by Ord. No. O-030-09; amended 11-12-2025 by Ord. No. O-25-42]**
- H. Notwithstanding any other provision of this article, the minimum penalty for violation of Subsection A of this section is \$35 for the first offense, \$70 for the second offense, and \$140 for the third and subsequent offenses. In determining whether an offense is a second, third or subsequent offense, only prior offenses that occurred within one year of the current offense shall be considered. **[Added 11-18-2019 by Ord. No. O-19-035]**

§ 327-15.1. Temporary overnight parking permits. [Added 6-21-2005 by Ord. No. 05-20; amended 8-18-2009 by Ord. No. O-043-09; 12-18-2012 by Ord. No. O-12-68; 11-12-2025 by Ord. No. O-25-42]

- A. Upon written application by the owner or managing agent of property used for residential purposes, the Township may issue temporary overnight parking permits, for a period not to exceed 90 days, for use by the owners and/or occupants of said property when on-site parking shall be temporarily unavailable due to construction activities or emergency conditions occurring on or relating to the property.
- B. Temporary parking permits may be issued by the Township pursuant to this section upon the filing

by the owner or managing agent of a written application, in a form provided by the Township, which shall include the following information certified by the owner or managing agent:

- (1) The name and address of the property owner;
 - (2) The address of the subject property;
 - (3) The number of parking spaces located on the subject property;
 - (4) The number of on-site parking spaces which will not be available to residents as a result of temporary construction activities on the property;
 - (5) A description of the construction activities to be performed on the property and the time period during which said activities will occur, or a description of the emergency condition which causes on-site parking to be temporarily unavailable and the time period during which said condition is expected to exist;
 - (6) The number of temporary parking permits requested;
 - (7) A list of the requested permit holders by name and vehicle information (make/model and license plate number);
 - (8) A certification by the owner or managing agent that there are no other areas to park vehicles on the property during construction or the emergency condition; and
 - (9) Such other information as the Township may require to process said application.
- C. Upon review of a completed application authorized in accordance with Subsection B, the Township may issue temporary overnight parking permits to the owner or managing agent, for use solely by occupants of the property for a period not to exceed 90 days, subject to the following conditions:
- (1) The number of permits issued shall not exceed the number of parking spaces on the property which will not be available due to construction activities or an emergency condition occurring on or relating to the property.
 - (2) Parking permits shall not be issued if public parking is available within 500 feet of any boundary line of the subject property.
 - (3) Parking permits may only be issued to the owner or managing agent of the property upon payment by said owner or managing agent of the following fee: \$72 per permit for each ninety-day period or part thereof.
 - (4) Permits shall not be issued for any time period longer than the anticipated period of construction on the property or the existence of the emergency condition, as determined by the Township.
- D. A permit issued pursuant to this section shall entitle the permit holder to park overnight only on the designated street or streets abutting the subject property.
- E. The Township may revoke any permit issued pursuant to this section upon proof that:
- (1) Any information provided in the written application was materially false or misleading or is no longer valid;
 - (2) A certificate of occupancy or certificate of approval has been issued by the Construction Code Official on the construction project has otherwise been completed or abandoned; or

- (3) The emergency condition which was the basis for issuance of the permit no longer exists.
- F. Permits issued pursuant to this section may be renewed for an additional period, not to exceed 90 days, upon the filing of a renewal application by the owner or managing agent which shall contain the same information required in the original application. In no event shall permits be issued for more than a total of 180 days.
- G. All permits shall be in the form of license plate numbers and the form shall contain all essential information, including, without limitation, the type of permit, the period for which the permit is issued and the license plate number of the motor vehicle for which it is issued.
- H. Parking permits issued pursuant to this section shall be nontransferable.
- I. Any person who knowingly files an application for a temporary parking permit pursuant to this section which contains information which is false or misleading in any material respect shall, upon conviction thereof, be subject to a fine not exceeding \$1,250 or imprisonment for a term not exceeding 15 days.

§ 327-15.2. Overnight parking of commercial vehicles. [Added 6-22-2010 by Ord. No. O-10-029]

- A. Notwithstanding any other provision of the Township Code, no person shall park a tractor-trailer or a commercial vehicle with a gross weight in excess of 10,000 pounds on any street in the Township of Montclair between the hours of 9:00 p.m. and 6:00 a.m. No overnight parking permit shall be issued pursuant to §§ 327-15, 327-15.1 or any other provision of the Township Code for a tractor-trailer or any commercial vehicle with a gross weight in excess of 10,000 pounds. "Tractor-trailer" shall mean a tractor or trailer, or a connected tractor and trailer, regardless of gross weight. **[Amended 4-25-2017 by Ord. No. O-17-017]**
- B. Violations and penalties. Any person who violates this section shall, upon conviction thereof, be punished by a fine not exceeding \$2,000. The court shall impose a minimum fine of \$100 for a first violation of this section and a minimum fine of \$500 for any subsequent violation.

§ 327-16. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Afterglow Way	Both	Entire length
Alexander Avenue [Added 8-20-2002 by Ord. No. 02-35]	South	Entire block between Norwood Avenue and Park Street
Alexander Avenue [Added 11-12-2013 by Ord. No. O-13-58]	South	From Valley Road west to the dead end
Alexander Avenue [Added 8-20-2002 by Ord. No. 02-35]	South	Entire block between Valley Road and Norwood Avenue
Amherst Place [Added 11-29-2016 by Ord. No. O-16-045]	North	Entire length
Bay Street [Added 3-8-2011 by Ord. No. O-11-008]	East	From Glenridge Avenue north for 35 feet

Name of Street	Side	Location
Bay Street [Amended 11-18-2019 by Ord. No. O-19-037]	East	From Sherman Street north to town line
Bay Street [Amended 3-8-2011 by Ord. No. O-11-008; repealed 11-18-2019 by Ord. No. O-19-037]		
Bay Street [Added 6-12-2007 by Ord. No. 07-30]	West	Entire length
Bell Street	East	From Bloomfield Avenue to a point 62 feet west therefrom
Bellevue Avenue [Amended 8-24-2010 by Ord. No. O-10-045]	North	From Norwood Avenue to a point 460 feet east therefrom
Bellevue Avenue	North	From Park Street to a point 97 feet west
Bellevue Avenue	North	From Valley Road to North Mountain Avenue
Bellevue Avenue	South	From Grove Street east for 96 feet
Bellevue Avenue	South	From Grove Street west for 150 feet
Bellevue Avenue	South	From Park Street east for 68 feet
Bellevue Avenue	South	From Park Street to a point 109 feet west
Bellevue Avenue	South	From Upper Montclair Parking Plaza west to Rail Road Crossing
Bloomfield Avenue	Both	From the westerly curblineline of St. Luke's Place to the easterly curblineline of Prospect Avenue
Bloomfield Avenue	North	From Glenridge Avenue to North Fullerton Avenue
Bloomfield Avenue [Amended 1-6-2009 by Ord. No. 08-52]	North	From Grove Street to a point 333 feet east therefrom
Bloomfield Avenue	North	From Lackawanna Plaza west for 91 feet
Bloomfield Avenue	North	From Maple Place west for 30 feet
Bloomfield Avenue	North	From Midland Avenue east for 38 feet
Bloomfield Avenue	North	From Midland Avenue west for 34 feet
Bloomfield Avenue	North	From North Fullerton Avenue west for 51 feet
Bloomfield Avenue	North	From Park Street west for 36 feet
Bloomfield Avenue	North	From Pine Street to the town line
Bloomfield Avenue	North	From Valley Road west for 150 feet
Bloomfield Avenue	South	From Hartley Street west for 174 feet
Bloomfield Avenue	South	From Maple Avenue east to the town line
Bloomfield Avenue	South	From New Street to Mission Street
Bloomfield Avenue	South	From Seymour Street to a point 25 feet east thereof

Name of Street	Side	Location
Bloomfield Avenue	South	East of South Fullerton Avenue
Bloomfield Avenue	South	From South Park east for 37 feet
Braemore Road	Both	From Lorraine Avenue to Upper Mountain Avenue
Brainard Street	North	From Valley Road west for 32 feet, 6 inches
Brainard Street	South	Entire length
Bruce Road	South	Entire length
Brunswick Road	South	From Valley Road to Central Avenue
Cambridge Road [Added 3-10-2015 by Ord. No. O-15-004]	North	East of Grove Street to Glen Ridge line
Canterbury Drive [Added 9-19-2017 by Ord. No. O-17-029]	South	Entire length
Carlisle Road	Both	From Normal Avenue to the dead end
Carlisle Road	West	Entire length
Cedar Avenue	North	From High Street east for 380 feet
Cedar Avenue	South	From High Street east for 370 feet
Cedar Avenue	South	From Nishuane Road west for 40 feet, 5 inches
Chestnut Street	Both	From Forest Street east for 45 feet
Chestnut Street	North	From Midland Avenue west for 66 feet
Chestnut Street	North	From Midland Avenue to Park Street
Chestnut Street	North	From North Fullerton Avenue west for 46 feet
Chestnut Street	North	From Park Street east for 40 feet
Chestnut Street	South	From Midland Avenue west for 69 feet
Chestnut Street	South	From Park Street east for 50 feet
Chestnut Street	South	From Rand School to North Fullerton Avenue
Chestnut Street	South	From Valley Road east for 61 feet
Christopher Street [Added 2-21-2012 by Ord. No. O-12-04]	East	From Chestnut Street to Columbus Avenue
Christopher Street	East	Between Walnut Street and Chestnut Street
Christopher Street [Added 8-15-2023 by Ord. No. O-23-25]	West	Between Walnut Street and Oxford Street
Church Street [Added 11-10-2015 by Ord. No. O-15-034]	North	From Bloomfield Avenue to a point 90 feet south and west therefrom
Church Street	North	From Orange Road east for 178 feet
Church Street	North	From Park Street east for 78 feet
Church Street	North	From Valley Road West to Orange Road

Name of Street	Side	Location
Church Street	South	From Bloomfield Avenue to South Park Street
Church Street	South	From Trinity Place west for 75 feet
Claremont Avenue [Added 4-6-2010 by Ord. No. O-10-019]	North	From Grove Street to Walnut Crescent
Claremont Avenue	North	From Walnut Crescent to Valley Road
Claremont Avenue [Added 4-6-2010 by Ord. No. O-10-019]	South	From Cloverhill Place to Pine Street
Claremont Avenue [Amended 4-6-2010 by Ord. No. O-10-019]	South	From Grove Street to a point 55 feet east therefrom
Clarewill Avenue	Both	From Grove Street to a point 50 feet west
Cloverhill Place	East	From Glenridge Avenue to a point 69 feet north
Cloverhill Place	West	Entire length
College Avenue [Amended 3-9-2010 by Ord. No. O-10-006]	East	From Brainard Street to Normal Avenue
College Avenue	West	From Hamilton Terrace to a point 36 feet south
College Avenue [Added 4-20-2010 by Ord. No. O-10-022]	West	From Hamilton Terrace to Normal Avenue
College Avenue	West	From Mt. Hebron Road to a point 64 feet north
Columbus Avenue [Amended 9-9-2008 by Ord. No. 08-28]	North	From Christopher Street to Essex Avenue
Cooper Avenue	North	From Northview Avenue to a point 58 feet, 9 inches, east
Cooper Avenue [Added 4-6-2010 by Ord. No. O-10-018]	North	From Valley Road to a point 273 feet east therefrom
Cooper Avenue	South	From a point 525 feet east from Northview Avenue to a point 153 feet east therefrom
Cooper Avenue	South	From Northview Avenue to a point 55 feet east
Cooper Avenue [Added 4-6-2010 by Ord. No. O-10-018]	South	From a point 250 feet east of Valley Road to a point 55 feet east therefrom
Cottage Place	West	From Munn Street north for 250 feet
Crestmont Road [Added 1-30-2001 by Ord. No. 01-02]	East	From 440 feet north of Claremont Avenue to a point 150 feet therefrom
Crestmont Road [Added 1-30-2001 by Ord. No. 01-02]	East	From 630 feet north of Claremont Avenue to the Verona Township border
Depot Square	West	From Label Street to a point 29 feet south
Duryea Road	East	From Lorraine Avenue north for 35 feet, 9 inches

Name of Street	Side	Location
Edgemont Road [Amended 12-9-2008 by Ord. No. 08-46]	West	From Berkeley Place to Parkway
Elm Street [Added 6-11-2002 by Ord. No. 02-20]	East	From Elmwood Avenue north for 120 feet
Elm Street [Added 6-11-2002 by Ord. No. 02-20]	East	From Elmwood Avenue south for 75 feet
Elm Street	East	From Fulton Street south for 45 feet
Elm Street	East	From Washington Street south for 66 feet
Elm Street	East	From Washington Street north for 40 feet
Elm Street [Added 6-11-2002 by Ord. No. 02-20]	West	From Hawthorne Place north for 128 feet
Elm Street [Added 6-11-2002 by Ord. No. 02-20]	West	From Hawthorne Place south for 105 feet
Elm Street	West	From Union Street north for 53 feet
Elm Street	West	From Union Street south for 48 feet
Elm Street [Added 6-11-2002 by Ord. No. 02-20]	West	From a point 215 feet south of Union Street to a point 75 feet south therefrom
Elston Road	North	From Valley Road east for 59 feet
Elston Road	South	From Valley Road east for 65 feet
Emerson Place [Added 11-12-2002 by Ord. No. 02-49]	South	Entire length
Erie Street [Added 11-12-2025 by Ord. No. O-25-43]	West	From Label Street north for 28 feet
Erie Street [Added 11-12-2025 by Ord. No. O-25-43]	West	From Label Street north from a point 86 feet to a point 32 feet north therefrom
Essex Avenue	East	From Columbus Avenue north for 37 feet
Essex Avenue	East	From Columbus Avenue south for 40 feet
Essex Avenue [Added 2-21-2012 by Ord. No. O-12-05]	East	From Fairfield Street to Frederick Street
Essex Avenue [Repealed 9-9-2008 by Ord. No. 08-28]		
Fairfield Street [Amended 4-20-2021 by Ord. No. O-21-07]	North	From North Fullerton Avenue to Montclair Avenue
Fairfield Street	South	From North Fullerton Avenue west for 130 feet
Fernwood Avenue	North	From Valley Road to Norwood Avenue
Forest Street	East	From Chestnut Street north for 67 feet
Forest Street	East	From Chestnut Street south for 60 feet

Name of Street	Side	Location
Forest Street	East	From Walnut Street south for 75 feet
Forest Street	West	From Chestnut Street north for 48 feet
Forest Street	West	From Claremont Avenue south for 59 feet
Forest Street	West	From Glenridge Avenue north for 61 feet
Forest Street	West	From Walnut Street south for 51 feet
Francis Place	East	Entire length
Francis Place	West	From Bloomfield Avenue north for 72 feet
Franklin Avenue [Added 11-1-2011 by Ord. No. O-11-065]	East	From the southeast corner of Virginia Avenue to a point 64 feet south therefrom
Franklin Avenue [Added 11-1-2011 by Ord. No. O-11-065]	East	From the northeast corner of Virginia Avenue to a point 100 feet north therefrom
Franklin Avenue [Added 11-1-2011 by Ord. No. O-11-065]	West	From the southwest corner of Virginia Avenue to a point 62 feet south therefrom
Franklin Avenue [Added 11-1-2011 by Ord. No. O-11-065]	West	From the northwest corner of Virginia Avenue to a point 80 feet north therefrom
Frederick Street	North	Entire length
Frink Street	East	Entire length
Frink Street	West	From Walnut Street north for 24 feet
Fulton Street [Added 8-24-2010 by Ord. No. O-10-050]	North	From New Street to a point 32 feet west therefrom
Fulton Street [Added 8-24-2010 by Ord. No. O-10-050]	North	From a point 220 ft. west of New Street to a point 72 feet east therefrom
Fulton Street [Added 8-24-2010 by Ord. No. O-10-050]	South	From Miller Street to a point 47 feet east therefrom
Garden Street	North	From North Fullerton Avenue east for 59 feet
Garden Street	South	Entire length
Garfield Place	North	From Valley Road west for 42 feet
Garfield Place	South	Entire length
Gates Avenue	East	From Bloomfield Avenue south for 62 feet
Gates Avenue [Added 2-20-2018 by Ord. No. O-18-008]	East	From Hawthorne Place for 60 feet north
Gates Avenue [Added 2-20-2018 by Ord. No. O-18-008]	East	From Hawthorne Place for 80 feet south
Gates Avenue	South	From Orange Road west for 78 feet
Gates Avenue [Added 2-20-2018 by Ord. No. O-18-008]	West	From Hawthorne Place for 80 feet north

Name of Street	Side	Location
Gates Avenue [Added 2-20-2018 by Ord. No. O-18-008]	West	From Hawthorne Place for 40 feet south
Gates Avenue	West	From Union Street north for 240 feet
Gates Avenue	West	From Union Street south for 51 feet
George Street	North	Entire length
Glenridge Avenue [Added 10-19-2010 by Ord. No. O-10-059]	Both	From a point 40 feet west of New Jersey Transit Railroad grade crossing to a point 215 feet east therefrom
Glenridge Avenue	North	From a point 133 feet east from North Willow Street to a point 162 feet east therefrom
Glenridge Avenue	North	East of Grove Street for 215 feet
Glenridge Avenue	North	From Bay Street east for 54 feet
Glenridge Avenue	North	From Bay Street west for 51 feet
Glenridge Avenue	North	From North Willow Street east for 35 feet
Glenridge Avenue	North	From North Willow Street west for 32 feet
Glenridge Avenue	North	From Pine Street west for 35 feet
Glenridge Avenue	South	From Baldwin Street to the town line
Glenridge Avenue [Amended 11-14-2022 by Ord. No. O-22-30]	South	From Forest Street to Bloomfield Avenue
Glenridge Avenue [Added 2-4-2003 by Ord. No. 03-3]	South	From Grove Street to the Town line
Gordonhurst Avenue	North	From Park Street east for 34 feet
Gordonhurst Avenue	North	From Valley Road to North Fullerton Avenue
Gordonhurst Avenue	South	From Park Street west for 90 feet
Grandview Place	Both	Entire Length
Grant Street [Added 8-18-2009 by Ord. No. O-040-09]	Both	From Baldwin Street west for 166 feet
Grant Street [Added 8-18-2009 by Ord. No. O-040-09]	South	From Pine Street east for 288 feet
Grant Street	North	From Bay Street west for 6 feet
Grant Street	South	From Pine Street to Bay Street
Greenwood Avenue	East	From Claremont Avenue north for 46 feet
Greenwood Avenue	East	From Glenridge Avenue north for 46 feet
Greenwood Avenue	East	From Walnut Street south for 64 feet
Greenwood Avenue	East	From Walnut Street to Willard Place
Greenwood Avenue	West	From Claremont Avenue north for 74 feet

Name of Street	Side	Location
Greenwood Avenue	West	From Glenridge Avenue north for 76 feet
Grove Street	Both	From Bloomfield Avenue to Glenridge Avenue
Grove Street	East	From Buckingham Road to Windermere Road
Grove Street	East	From Alexander Avenue to the Township line
Grove Street	East	From Glenridge Avenue north to Grove Terrace
Grove Street [Added 9-19-2017 by Ord. No. O-17-027]	East	From Gordonhurst Avenue to a point 105 feet north therefrom
Grove Street	East	From Kenneth Road to Alexander Avenue
Grove Street	East	From a point 225 feet from Claremont Avenue to a point 319 feet north therefrom
Grove Street	East	From No. 479 to Bellevue Avenue
Grove Street	West	From Bellevue Avenue south for 70 feet
Grove Street	West	From the Township line to Alexander Avenue
Grove Terrace	North	From Grove Street east for 64 feet
Grove Terrace	South	Entire length
Haddon Place [Amended 12-19-2023 by Ord. No. O-23-42]	North	Entire length
Haddon Place	South	From Park Street west for 60 feet
Hamilton Terrace	North	Entire length
Hamilton Terrace	South	From Carlisle Avenue east for 36 feet
Hamilton Terrace	South	From College Avenue west for 43 feet
Harrison Avenue [Added 9-19-2017 by Ord. No. O-17-028]	East	From Graham Terrace to a point 78 feet north therefrom
Harrison Avenue	East	From Orange Road to a point 125 feet south therefrom
Harrison Avenue	West	From Union Street for 150 feet south
Harrison Avenue	West	From Warman Street to Wilfred Street
Hartley Street	East	From Bloomfield Avenue south for 64 feet
Hartley Street	West	From a point 153 feet south of Bloomfield Avenue to a point 30 feet south therefrom
Hartley Street	East	From a point 220 feet south of Bloomfield Avenue to a point 50 feet south therefrom
Highland Avenue [Added 2-26-2013 by Ord. No. O-13-04]	West	From Mt. Hebron Road to a point 550 feet south therefrom
Highland Avenue [Added 6-10-2003 by Ord. No. 03-36]	West	Normal Avenue to Mount Hebron Road

Name of Street	Side	Location
Highland Avenue [Added 3-30-2004 by Ord. No. 04-11]	West	From Normal Avenue to the Township line
High Street	East	From Cedar Avenue to Orange Road
High Street	West	From Cedar Avenue north for 421 feet
High Street [Added 10-20-2009 by Ord. No. O-060-09]	West	From Cedar Avenue to a point 65 feet south therefrom
High Street	West	From Orange Road south for 725 feet
Hillside Avenue	North	From a point 25 feet west of St. Lukes to a point 86 feet therefrom
Hillside Avenue	North	From Orange Road to St. Lukes Place
Holland Terrace	North	From Midland Avenue west for 59 feet
Holland Terrace	South	From Midland Avenue west for 62 feet
Ingleside Road	South	Entire length
Inness Place	South	Entire length
Inwood Avenue	North	From Valley Road to Norwood Avenue
Inwood Avenue	South	From Valley Road east for 46 feet
James Street	South	From Park Street west for 43 feet
Jerome Place [Added 8-12-2013 by Ord. No. O-13-34]	North	From a point 162 feet east of Upper Mountain Avenue to a point 220 feet east therefrom
Jerome Place [Amended 8-12-2013 by Ord. No. O-13-34]	North	From Valley Road to a point 228 feet west therefrom
Jerome Place [Added 8-12-2013 by Ord. No. O-13-34]	South	From a point 322 feet east of Upper Mountain Avenue to the railroad crossing
Jerome Place [Added 8-12-2013 by Ord. No. O-13-34]	South	From Upper Mountain Avenue to a point 222 feet west therefrom
Jerome Place [Added 8-12-2013 by Ord. No. O-13-34]	South	From a point 168 feet west of Valley Road to the railroad crossing
Laurel Place [Added 4-24-2001 by Ord. No. 01-18]	North	Entire block between Upper Mountain Avenue and Mountainside Park
Laurel Place	North	From Valley Road west for 38 feet
Laurel Place	South	From Valley Road west for 37 feet, 10 inches
Lincoln Street	South	From Elm Street east for 38 feet
Lincoln Street	North	From Elm Street east for 157 feet
Llewellyn Road	South	From Harrison Avenue to Orange Road
Lloyd Road [Added 10-23-2007 by Ord. No. 07-45]	East	From Hoburg Place to the Montclair Kimberly Academy parking area

Name of Street	Side	Location
Lloyd Road	West	From Hoburg Place to Parkhurst Place
Lorraine Avenue	Both	From Park Street west for 66 feet
Lorraine Avenue	North	From Park Street east for 67 feet
Lorraine Avenue	South	From Norwood Avenue to Park Street
Lorraine Avenue	Both	From Valley Road east for 252 feet
Maple Avenue	East	From Lincoln Street north for 61 feet
Maple Avenue	East	From Bloomfield Avenue south for 565 feet
Maple Avenue	West	From Bloomfield Avenue south for 41 feet
Maple Avenue	West	From Lexington Avenue north for 43 feet
Maple Avenue	West	From Lexington Avenue south for 37 feet
Maple Avenue	West	From a point 396 feet south from Bloomfield Avenue to a point 60 feet south therefrom
Maple Place	Both	Entire length
Marion Road	North	From Valley Road east for 65 feet
Marion Road	South	From Valley Road east for 60 feet
Midland Avenue [Added 2-8-2005 by Ord. No. 05-05]	East	From the northerly curblin of Chestnut Street to a point 370 feet north therefrom
Midland Avenue	East	From Chestnut Street south for 80 feet
Midland Avenue	East	From Montague Place north for 47 feet
Midland Avenue	East	From Montague Place south for 47 feet
Midland Avenue	East	From Portland Place north for 28 feet
Midland Avenue	East	From Portland Place north for 32 feet
Midland Avenue	East	From Portland Place south for 28 feet
Midland Avenue	West	From Chestnut Street south for 63 feet
Midland Avenue	West	From James Street north for 26 feet
Midland Avenue	West	From Montague Place north for 53 feet
Midland Avenue	West	From Portland Place south for 33 feet
Midland Avenue	West	From Walnut Street south for 51 feet
Miller Street [Added 8-24-2010 by Ord. No. O-10-050]	East	From Elmwood Avenue to a point 40 feet north therefrom
Miller Street [Added 8-24-2010 by Ord. No. O-10-050]	West	From Fulton Street to a point 38 feet south therefrom
Mission Street	West	Entire length
Montague Place	Both	From Park Street west for 61 feet

Name of Street	Side	Location
Montague Place	North	Entire length
Montague Place	South	From Valley Road east for 38 feet
Montclair Avenue	Both	From Label Street north for 85 feet
Mount Hebron Road [Added 10-19-2010 by Ord. No. O-10-059]	Both	From a point 112 feet west of New Jersey Transit Railroad grade crossing to a point 270 feet east therefrom
Mount Hebron Road [Amended 2-28-2006 by Ord. No. 06-03]	North	From Valley Road to Highland Avenue
Mount Hebron Road	South	From Grove Street to Park Street
Mountainside Park Terrace	Both	South of Parkside Place
Mountainview Place	Both	Entire length
Mt. Vernon Road [Added 6-20-2017 by Ord. No. O-17-021]	Dead end (width of street)	From the north curblin for a distance of 25 feet and 9 inches south to the south curblin
Mt. Vernon Road [Added 6-20-2017 by Ord. No. O-17-021]	North	First 90 feet and 6 inches west from boundary of Brookdale Park
Mt. Vernon Road [Added 6-20-2017 by Ord. No. O-17-021]	South	First 90 feet and 6 inches west from boundary of Brookdale Park
Munn Street	North	From Cottage Place east for 35 feet
Munn Street	North	From Cottage Place west for 46 feet
Munn Street	North	From North Fullerton Avenue west for 44 feet, 5 inches
Munn Street	North	From Park Street east for 47 feet
Munn Street	South	From Park Street east for 72 feet
New Street [Amended 3-20-2018 by Ord. No. O-18-012]	West	Entire length
New Street [Added 8-24-2010 by Ord. No. O-10-051; repealed 3-20-2018 by Ord. No. O-18-012]		
Normal Avenue	Both	From a point 89 feet east from Carlisle Road to a point 50 feet east therefrom
Normal Avenue [Added 10-19-2010 by Ord. No. O-10-059]	Both	From a point 100 feet west of New Jersey Transit Railroad grade crossing to a point 303 feet east therefrom
Normal Avenue	North	From Valley Road west for 48 feet, 10 inches
Normal Avenue	South	East of College Avenue
Norman Road	South	From Valley Road to Norwood Avenue

Name of Street	Side	Location
North Fullerton Avenue	Both	From Bloomfield Avenue North for 208 feet
North Fullerton Avenue	Both	From a point 644 feet north from Chestnut Street to a point 473 feet north therefrom
North Fullerton Avenue	Both	From Watchung Avenue south for 96 feet
North Fullerton Avenue	East	From Claremont Avenue north for 51 feet
North Fullerton Avenue	East	From Claremont Avenue south for 68 feet
North Fullerton Avenue	East	From a point 407 feet south from Claremont Avenue to a point 225 feet south therefrom
North Fullerton Avenue [Added 11-8-2012 by Ord. No. O-12-56]	East	From Fairfield Street to a point 45 feet north therefrom
North Fullerton Avenue [Amended 11-8-2012 by Ord. No. O-12-56]	East	From Fairfield Street to a point 60 feet south therefrom
North Fullerton Avenue	East	From Frederick Street north to Fairfield Street
North Fullerton Avenue	East	From Frederick Street to Garden Street
North Fullerton Avenue	East	From Gordonhurst Avenue north for 64 feet
North Fullerton Avenue	East	From Gordonhurst Avenue south for 60 feet
North Fullerton Avenue	East	From Rand Place north to Chestnut Street
North Fullerton Avenue	East	From Rand Place south for 44 feet
North Fullerton Avenue [Repealed 1-27-2026 by Ord. No. O-25-64]		
North Fullerton Avenue [Added 1-27-2026 by Ord. No. O-25-64]	West	From railroad crossing south for 610 feet
North Fullerton Avenue [Added 1-27-2026 by Ord. No. O-25-64]	West	From a point 710 feet south of railroad crossing to a point 252 feet thereafter
North Fullerton Avenue	West	From Bloomfield Avenue north for 208 feet
North Fullerton Avenue	West	From a point 325 feet north from Bloomfield Avenue to a point 160 feet north therefrom
North Fullerton Avenue	West	From Champlain Terrace south for 602 feet
North Fullerton Avenue	West	From Chestnut Street north for 51 feet, 6 inches
North Fullerton Avenue	West	From Claremont Avenue north for 44 feet
North Fullerton Avenue	West	From a point 211 feet north from Claremont Avenue to a point 100 feet north therefrom
North Fullerton Avenue [Added 4-25-2017 by Ord. No. O-17-015]	West	From Fairfield Street north for 64 feet
North Fullerton Avenue [Amended 4-25-2017 by Ord. No. O-17-015]	West	From Fairfield Street south for 64 feet

Name of Street	Side	Location
North Fullerton Avenue	West	From Gordonhurst Avenue north for 60 feet
North Fullerton Avenue	West	From Gordonhurst Avenue south for 66 feet
North Fullerton Avenue	West	From Munn Street south for 125 feet
North Fullerton Avenue	West	From Munn Street south for 140 feet
North Fullerton Avenue [Added 7-27-2004 by Ord. No. 04-38]	West	From Watchung Avenue to a point 33 feet northerly therefrom
North Mountain Avenue	Both	From Van Vleck Street south for 72 feet
North Mountain Avenue	East	From Bellevue Avenue east for 74 feet
North Mountain Avenue	East	From Parkside north for 41 feet
North Mountain Avenue	East	From Van Vleck Street north for 73 feet
North Mountain Avenue [Amended 11-13-2006 by Ord. No. 06-57]	East	From the southerly curblin of Watchung Avenue to a point 50 feet south therefrom
North Mountain Avenue	West	From Bellevue Avenue south for 88 feet
North Mountain Avenue	West	From Van Vleck Street north for 61 feet
North Mountain Avenue [Added 11-13-2006 by Ord. No. 06-57]	West	From the northerly curblin of Watchung Avenue to a point 50 feet north therefrom
North Willow Street	East	From Claremont Avenue north for 58 feet
North Willow Street [Amended 10-18-2016 by Ord. No. O-16-040]	East	From Glenridge Avenue north for 61 feet
North Willow Street	East	From Walnut Street south for 58 feet
North Willow Street	West	From Glenridge Avenue north to Walnut Street
Northview Avenue	East	From Summit Avenue north for 33 feet, 6 inches
Northview Avenue	East	From a point 67 feet south of Cooper Avenue to a point 53 feet north of Cooper Avenue
Northview Avenue	West	From Valley Road to Cooper Avenue
Norwood Avenue	West	From Bellevue Avenue to Oakwood Avenue
Oakwood Avenue	North	Entire length
Orange Road	East	From Plymouth Street south for 78 feet
Orange Road	West	From Bloomfield Avenue south for 96 feet
Orange Road [Added 2-21-2012 by Ord. No. O-12-06]	West	From Gates Avenue to Llewellyn Road
Orange Road	West	From Hillside Avenue to Plymouth Street
Orange Road [Added 11-12-2013 by Ord. No. O-13-55]	West	Linden Avenue a point 120 feet south therefrom
Orange Road West [Added 11-12-2013 by Ord. No. O-13-55]	West	Entire length

Name of Street	Side	Location
Oxford Street [Repealed 11-17-2014 by Ord. No. O-14-039]		
Oxford Street	North	From Grove Street west for 38 feet
Oxford Street	South	From Grove Street to Christopher Street
Oxford Street	South	From Grove Street west for 74 feet
Park Street	Both	From Chestnut Street south for 91 feet
Park Street [Repealed 3-20-2012 by Ord. No. O-12-12]		
Park Street [Added 9-13-2005 by Ord. No. 05-46]	East	From a point 245 feet north of Bloomfield Avenue to 60 feet north therefrom
Park Street	East	From a point 898 feet north from Chestnut Street to 191 feet north therefrom
Park Street	East	From a point 101 feet south from Walnut Street to 290 feet south therefrom
Park Street	East	From a point 118 feet north from Walnut Street to 90 feet north therefrom
Park Street	East	From Bloomfield Avenue north for 42 feet
Park Street	East	From Claremont Avenue north for 129 feet
Park Street	East	From Claremont Avenue south for 56 feet
Park Street	East	From Cooper Avenue north for 35 feet
Park Street	East	From Munn Street north for 222 feet
Park Street [Added 9-13-2005 by Ord. No. 05-46]	West	From a point 120 feet south of Portland Place to 60 feet south therefrom
Park Street	West	From a point 100 feet south from Montague Place to 127 feet south therefrom
Park Street	West	From a point 115 feet north from Munn Street to 80 feet north therefrom
Park Street	West	From Bellevue Avenue north for 61 feet
Park Street	West	From Bellevue Avenue south for 58 feet
Park Street	West	From Bloomfield Avenue north for 29 feet
Park Street	West	From Claremont Avenue north for 87 feet
Park Street [Amended 4-22-2003 by Ord. No. 03-27]	West	From Claremont Avenue south for 75 feet
Park Street	West	From Lorraine Avenue south for 49 feet, 6 inches
Park Street	West	From Montague Place south for 35 feet
Park Street	West	From Summit Avenue south for 30 feet

Name of Street	Side	Location
Parkside	South	From Carteret Street to Princeton Place
Pine Street	East	From Glenridge Avenue north for 82 feet
Pine Street [Amended 6-9-2009 by Ord. No. O-025-09]	West	From Bloomfield Avenue to Glenridge Avenue
Pine Street [Added 6-9-2009 by Ord. No. O-025-09]	East	From the northerly curblin of Bloomfield Avenue to a point 360 feet north therefrom
Pine Street [Added 6-9-2009 by Ord. No. O-026-09]	East	From the southerly curblin of Glenridge Avenue to a point 225 feet south therefrom
Pine Street	West	From a point 339 feet north from Glenridge Avenue to a point 320 feet north therefrom
Planchet Drive	South	Entire length
Plymouth Street	Both	From Orange Road west for 36 feet, 7 inches
Plymouth Street	North	From Wilde Place east for 120 feet
Plymouth Street	North	South Fullerton Avenue west for 164 feet
Plymouth Street	North	From Orange Road east for 70 feet
Plymouth Street	North	From Trinity Place east for 41 feet
Plymouth Street	North	From Trinity Place west for 44 feet
Plymouth Street	South	From Orange Road east for 84 feet
Plymouth Street	South	From South Fullerton Avenue west for 70 feet
Plymouth Street	South	From Wilde Place east for 33 feet
Plymouth Street	South	From Wilde Place west for 38 feet
Portland Place	North	From Park Street to Midland Avenue
Portland Place	North	From Valley Road east for 66 feet
Portland Place	South	From Midland Avenue west for 68 feet, 6 inches
Portland Place	South	From Park Street west for 33 feet
Portland Place	South	From Valley Road east for 46 feet
Potter Court [Added 3-20-2012 by Ord. No. O-12-14]	North	From Valley Road west for 375 feet
Prospect Avenue [Added 2-4-2003 by Ord. No. 03-2]	East	From the northerly curblin of Bloomfield Avenue to a point 28 feet therefrom
Prospect Avenue [Added 2-4-2003 by Ord. No. 03-2]	East	From the southerly curblin of Claremont Avenue to a point 60 feet therefrom
Prospect Avenue [Added 2-4-2003 by Ord. No. 03-2]	West	From the northerly curblin of Bloomfield Avenue to a point 30 feet therefrom
Prospect Avenue [Added 2-4-2003 by Ord. No. 03-2]	West	From the southerly curblin of Claremont Avenue to a point 62 feet therefrom

Name of Street	Side	Location
Roosevelt Place	North	Entire length
Roosevelt Place	South	From South Fullerton Avenue east for 39 feet
Roosevelt Place	South	From South Willow Street west for 34 feet
Roswell Terrace	West	Entire length
Saint Lukes Place	East	From Bloomfield Avenue south for 92 feet
Saint Lukes Place	East	From Hillside Avenue north for 588 feet
Saint Lukes Place	West	From Bloomfield Avenue south for 37 feet
Seymour Street	East	From Bloomfield Avenue south for 25 feet
Seymour Street	East	From Roosevelt Place north for 16 feet
Seymour Street	West	Entire length
Sherman Street [Added 8-18-2009 by Ord. No. O-040-09]	North	Entire length
South Fullerton Avenue	East	From The Crescent to Bloomfield Avenue
South Fullerton Avenue [Added 2-20-2018 by Ord. No. O-18-009]	East	From Hawthorne Place for 45 feet north
South Fullerton Avenue	East	From Roosevelt Place north for 35 feet
South Fullerton Avenue [Added 10-19-2010 by Ord. No. O-10-062]	East	From Union Street to Roosevelt Place
South Fullerton Avenue	West	From The Crescent north for 32 feet
South Fullerton Avenue	West	From The Crescent south for 29 feet
South Fullerton Avenue	West	From the Crescent Parking Plaza north for 25 feet
South Fullerton Avenue	West	From the Crescent Parking Plaza south for 25 feet
South Fullerton Avenue [Added 2-20-2018 by Ord. No. O-18-009]	West	From Hawthorne Place for 45 feet north
South Fullerton Avenue [Added 2-20-2018 by Ord. No. O-18-009]	West	From Hawthorne Place for 35 feet south
South Fullerton Avenue [Added 10-19-2010 by Ord. No. O-10-062]	West	From Hawthorne Place to Union Street
South Fullerton Avenue	West	From Plymouth Street north for 25 feet
South Fullerton Avenue	West	From Plymouth Street south for 51 feet
South Fullerton Avenue	West	From Union Street north for 61 feet, 6 inches
South Mountain Avenue	Both	From Bloomfield Avenue south for 469 feet
South Park Street	East	From Bloomfield Avenue south for 37 feet
South Park Street	West	From Bloomfield Avenue south for 70 feet
South Park Street	West	From The Crescent to Church Street

Name of Street	Side	Location
South Willow Street	East	Entire length
South Willow Street	West	From Bloomfield Avenue south for 150 feet
South Willow Street	West	From Roosevelt Place north for 37 feet
Summit Avenue	Both	From Park Street east for 63 feet, 7 inches
Summit Avenue	North	From Northview Avenue east for 41 feet
Summit Avenue	North	From Park Street to Northview Avenue
Summit Avenue	South	From Northview Avenue east for 34 feet
Sylvan Place	South	Entire length
The Crescent [Amended 6-21-2005 by Ord. No. 05-29]	Both	From South Fullerton Avenue to a point 84 feet west
The Crescent	North	Entire length
The Crescent [Repealed 6-21-2005 by Ord. No. 05-29]		
The Crescent	South	From Trinity Place to a point 57 feet east
The Crescent Deck Service Road [Added 11-12-2025 by Ord. No. O-25-43]	Both	Between South Park Street and South Fullerton in front of The Crescent Parking Deck
Trinity Place	East	Entire length
Trinity Place	West	From Church Street south for 37 feet
Trinity Place	West	From Myrtle Avenue south for 28 feet
Tuxedo Road	North	From Tremont Place west to Grove Street
Tuxedo Road	South	From Grove Street east for 48 Feet
Union Street	South	From a point 235 feet west from South Fullerton Avenue to a point 121 feet west therefrom
Union Street	North	From Elm Street west for 39 feet
Union Street	North	From Gates Avenue east for 55 feet
Union Street	North	From South Fullerton Avenue west for 68 feet
Union Street	North	From Wilde Place east for 50 feet
Union Street	South	From Elm Street west for 54 feet
Union Street	South	From Gates Avenue east for 30 feet
Union Street [Amended 3-20-2018 by Ord. No. O-18-013]	South	From Prospect Terrace to a point 40 feet west therefrom
Union Street [Added 3-20-2018 by Ord. No. O-18-013]	South	From Prospect Terrace to a point 55 feet east therefrom
Upper Montclair Lot Service [Added 11-12-2025 by Ord. No. O-25-43]	Both	Upper Montclair Parking Plaza Entrance and Exit

Name of Street	Side	Location
Upper Mountain Avenue	Both	From Township line south to Normal Avenue
Upper Mountain Avenue [Added 5-8-2007 by Ord. No. 07-22]	East	From Berkeley Place to a point 75 feet south
Upper Mountain Avenue	East	From Bloomfield Avenue for 900 feet north
Upper Mountain Avenue [Added 2-21-2012 by Ord. No. O-12-08]	East	From Ingleside Road north to Bradford Avenue
Upper Mountain Avenue [Added 2-21-2012 by Ord. No. O-12-08]	East	From Laurel Place north to Normal Avenue
Upper Mountain Avenue	West	From Laurel Place north for 130 feet
Upper Mountain Avenue [Added 4-10-2007 by Ord. No. 07-13]	West	From a point 673 feet north of Laurel Place to a point 22 feet northerly therefrom
Upper Mountain Avenue	West	From Laurel Place south to 230 feet north of Bloomfield Avenue
Upper Mountain Avenue [Added 4-10-2007 by Ord. No. 07-13]	West	From a point 315 feet south of Laurel Place to a point 22 feet south therefrom
Upper Mountain Avenue	West	From Mt. Hebron Road north for 190 feet
Upper Mountain Avenue [Added 11-8-2012 by Ord. No. O-12-57]	West	From Mt. Hebron Road to a point 48 feet south therefrom
Upper Mountain Avenue	West	From Normal Avenue south for 150 feet
Valley Road	Both	From Brunswick Road south for 607 feet
Valley Road	East	From Bellaire Drive north for 330 feet
Valley Road	East	From Bloomfield Avenue to Portland Place (parking for police vehicles only)
Valley Road [Added 6-21-2005 by Ord. No. 05-28]	East	From the southerly curblin of Brunswick Road to a point 125 feet south therefrom
Valley Road	East	From Central Avenue to Holland Terrace
Valley Road	East	From Church Street to Bloomfield Avenue
Valley Road	East	From Claremont Avenue south for 64 feet
Valley Road	East	From Cooper Avenue north to No. 593
Valley Road	East	From Lorraine Avenue north for 70 feet
Valley Road	East	From a point 35 feet south of Montague Place to a point 30 feet north of Montague Place
Valley Road [Added 12-28-2010 by Ord. No. O-10-077]	East	From a point 937 feet north of Mount Hebron Road to a point 50 feet north therefrom
Valley Road	East	From Oakwood Avenue north for 33 feet, 6 inches
Valley Road	East	From Oakwood Avenue south for 32 feet

Name of Street	Side	Location
Valley Road	East	From Portland Place north for 36 feet
Valley Road	East	From Watchung Avenue to Wildwood Avenue
Valley Road	East	From a point 45 feet south of William Street to a point 35 feet north of William Street
Valley Road	West	From Bellevue Avenue north for 44 feet
Valley Road	West	From Bloomfield Avenue north to No. 52
Valley Road	West	From Bloomfield Avenue south for 208 feet
Valley Road	West	From Central Avenue to Chestnut Street
Valley Road	West	From Claremont Avenue south for 103 feet
Valley Road	West	From Claremont Avenue to Van Vleck Street
Valley Road	West	From Cooper Avenue north for 25 feet
Valley Road	West	From a point 44 feet north from Cooper Avenue to a point 217 feet north therefrom
Valley Road	West	From Cooper Avenue south for 77 feet
Valley Road	West	From Mountainview Place north for 36 feet
Valley Road	West	From Mountainview Place south for 57 feet
Valley Road [Added 12-9-2003 by Ord. No. 03-76]	West	From Mount Hebron Road to Normal Avenue
Valley Road	West	From Preston Place to Alvin Place
Van Vleck Street	North	From North Mountain Avenue east for 65 feet
Vera Place	Both	From Midland Avenue west for 80 feet
Virginia Avenue	North	From Harrison Avenue west for 36 feet, 2 inches
Virginia Avenue	South	From Harrison Avenue to Franklin Avenue
Walden Place	East	Entire length
Walnut Crescent [Amended 4-7-2009 by Ord. No. O-007-09]	Both	Entire length, except for emergency vehicles as set forth in § 327-16.1
Walnut Place	South	Entire length
Walnut Street	North	From a point 163 feet west from Park Street to a point 51 feet west therefrom
Walnut Street	South	From a point 167 feet east from Midland Avenue to 60 feet east therefrom
Walnut Street	North	From Christopher Street east for 41 feet
Walnut Street	North	From Forest Street east for 125 feet
Walnut Street	North	From Forest Street west for 41 feet
Walnut Street	North	From Grove Street west for 60 feet

Name of Street	Side	Location
Walnut Street	North	From Valley Road east for 56 feet
Walnut Street	North	From a point 73 feet east of Central Avenue to a point 73 feet west of Central Avenue
Walnut Street	South	From Grove Street east for 270 feet
Walnut Street	South	From Greenwood Avenue west for 43 feet
Walnut Street	South	From Greenwood Avenue west to North Willow Street
Walnut Street	South	From Grove Street west for 62 feet
Walnut Street	South	From Walnut Crescent west for 66 feet
Walnut Street	South	From a point 37 feet east of Pine Street to a point 36 feet west of Pine Street
Walnut Street	South	From a point 44 feet west of Forest Street to a point 42 feet east of Forest Street
Warfield Street [Added 4-24-2001 by Ord. No. 01-31]	North	Entire block between Upper Mountain Avenue and Highland Avenue
Warman Street	South	Entire length
Washington Avenue [Added 4-20-2021 by Ord. No. O-21-06]	North	From Orange Road east to Franklin Place
Washington Street [Amended 8-24-2010 by Ord. No. O-10-051]	North	From Elm Street east for 52 feet, 2 inches
Watchung Avenue	North	From Park Street to North Fullerton Avenue
Watchung Avenue	South	From Grove Street west for 70 feet
Waterbury Road [Added 7-20-2010 by Ord. No. O-10-033]	West	Entire length
Wellesley Road	South	From Valley Road to Norwood Avenue
Wellesley Road	North	From Valley Road east for 54 feet
Wilde Place	East	Entire length
Wilde Place	West	From Plymouth Street south for 39 feet
Wilde Place	West	From Union Street north for 42 feet
Wildwood Avenue	North	From Valley Road east for 98 feet
Wildwood Avenue	South	From Park Street east for 13 feet
Wildwood Avenue	South	From Valley Road east for 89 feet
Willard Place	North	Entire length
William Street	North	From Valley Road east for 54 feet
William Street	South	From Valley Road to Dey Street

Name of Street	Side	Location
Windsor Place [Added 4-24-2001 by Ord. No. 01-30]	North	Entire block between Upper Mountain Avenue and Highland Avenue
Woodland Avenue [Added 8-12-2025 by Ord. No. O-25-32]	South	From Pierson Place to a point 125 feet west thereof
Yale Terrace [Added 12-27-2001 by Ord. No. 01-52]	North	Entire length

§ 327-16.1. Emergency vehicle parking on Walnut Crescent. [Added 4-7-2009 by Ord. No. O-007-09]

Notwithstanding the provisions of § 327-16, temporary parking shall be permitted on the westerly side of Walnut Crescent between the intersection of Bay Avenue and the Glen Ridge municipal boundary line for ambulances and other marked emergency vehicles utilizing the services of Mountainside Hospital.

§ 327-16.2. Spaces reserved for mobile vendors. [Added 4-7-2015 by Ord. No. O-15-010]

- A. Notwithstanding any other provision of this code, no person shall park in a parking space reserved for a mobile vendor pursuant to Chapter 337 during the time period indicated therein, other than a mobile vendor holding a valid permit to occupy said parking space.
- B. At all times when the parking space is not reserved for a mobile vendor, the parking regulations applicable to the block and side where the space is located shall apply.

§ 327-17. No stopping or standing.

No person shall stop or stand a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Bay Street	East	From Sherman Street north for 30 feet
Bloomfield Avenue	North	From Francis Place west to the town line
Bloomfield Avenue	South	From Sunset Avenue east to St. Lukes Place
Cedar Avenue	Both	From Orange Road to Orange Road West
Cedar Avenue	North	From Orange Road West for 340 feet
Glenridge Avenue	South	From Bloomfield Avenue to a point 100 feet east
Lorraine Avenue	North	From Valley Road east for 147 feet
Lorraine Avenue	South	From the Municipal Parking Lot entrance to Valley Road
Lorraine Avenue	South	From Valley Road west to its end
Normal Avenue	Both	From Valley Road west to the Township line
North Fullerton Avenue	West	From Watchung Avenue north for 183 feet

Name of Street	Side	Location
North Willow Street [Added 2-27-2024 by Ord. No. O-24-03]	West	From Bloomfield Avenue to Glenridge Avenue
Orange Road	East	From a point 272 feet north from Washington Avenue to a point 175 feet north therefrom
Orange Road	West	From Cedar Avenue north for 226 feet
Orange Road	West	At Washington Avenue
Park Street	West	From a point 110 feet north of Walnut Street to a point 46 feet north therefrom
Park Street	Both	From Walnut Street south for 191 feet
Park Street	Both	From Walnut Street north for 156 feet
South Fullerton Avenue	Both	From Bloomfield Avenue south for 92 feet
Union Street	North	From Orange Road east for 151 feet
Union Street	South	From Orange Road west for 82 feet
Upper Mountain Avenue	Both	From a point 536 feet north from Laurel Place to a point 110 feet north of Normal Avenue
Upper Mountain Avenue [Added 3-19-2019 by Ord. No. O-19-007]	East	From Bellevue Avenue south for 125 feet
Valley Road	Both	From Lorraine Avenue south for 70 feet
Valley Road	West	From Normal Avenue south to Brainard Street
Valley Road	East	From Mt. Hebron Road to Normal Avenue
Walnut Street	North	From a point 219 feet west from North Fullerton Avenue to a point 52 feet west therefrom
Walnut Street	South	From a point 167 feet east from Midland Avenue to a point 60 feet east therefrom
Walnut Street	Both	From Park Street west for 163 feet
Walnut Street	Both	From Park Street east for 190 feet
Washington Avenue	North	From Madison Avenue to Orange Road

§ 327-17.1. Fire zones. [Added 6-9-2015 by Ord. No. O-15-014]

The following areas are fire zones designated pursuant to § 153-3.1:

Fire Zones:

151 Harrison Avenue and adjacent to 151 Harrison Avenue

1 Pine Street and adjacent to 1 Pine Street

588 Valley Road and adjacent to 588 Valley Road

§ 327-17.2. Fire lanes. [Added 6-9-2015 by Ord. No. O-15-014]

The following areas are fire lanes designated pursuant to § 153-3.1:

Fire Lanes:

Alvin Place
201 Bellevue Avenue
49 Claremont Avenue
Carriage Way
14-16 Forest Street
20 Glen Ridge Avenue
160 Gordonhurst Avenue
51 Greenwood Avenue
110 Greenwood Avenue
73-75 Grove Street
77 Grove Street
36 Hawthorne Place
1 Lackawanna Plaza (Bloomfield Avenue side)
7 North Willow (parking lot)
77 Orange Road
10 Pine Street
50 Pine Street
33 Plymouth Street
33-39 South Fullerton Avenue
60 South Fullerton Avenue
420-432 South Fullerton Avenue (Rear)
Under the South Fullerton Parking Deck
510 Valley Road
530 Valley Road
736 Valley Road

§ 327-18. Parking prohibited certain hours.

No person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/ Days	Location
Amherst Place [Amended 3-9-2010 by Ord. No. O-10-010; repealed 11-29-2016 by Ord. No. O-16-045]			
Amherst Place [Added 3-9-2010 by Ord. No. O-10-010; repealed 11-29-2016 by Ord. No. O-16-045]			
Amherst Place [Added 11-29-2016 by Ord. No. O-16-045]	South	8:00 a.m. to 10:00 p.m./Monday to Thursday; 8:00 a.m. to 6:00 p.m./Friday to Sunday	Entire length, except for valid permit holders and 30 minute parking permitted on school days
Bellevue Avenue	South	7:00 a.m. to 7:00 p.m./Monday to Friday	Between North Mountain Avenue and Erie-Lackawanna Railroad
Bellevue Avenue [Added 8-24-2010 by Ord. No. O-10-046]	South	8:00 a.m. to 4:00 p.m./Monday to Friday	From a point 190 feet east of the projected westerly curblin of Norwood Avenue to a point 310 feet east therefrom
Brainard Street [Added 3-9-2010 by Ord. No. O-10-010]	North	8:00 a.m. to 2:00 p.m. and 4:00 p.m. to 10:00 p.m./Monday to Thursday and 8:00 a.m. to 2:00 p.m. and 4:00 p.m. to 6:00 p.m./Friday; parking shall be permitted between the hours of 2:00 p.m. and 4:00 p.m., Monday to Friday, on days the Montclair public schools are not open	Entire length, except for valid permit holders
Brainard Street [Amended 3-9-2010 by Ord. No. O-10-010]	South	8:00 a.m. to 10:00 p.m./Monday to Thursday and 8:00 a.m. to 6:00 p.m./Friday	Entire length, except for valid permit holders
Carlisle Avenue	East	8:00 a.m. to 10:00 p.m./Monday to Thursday and 8:00 a.m. to 6:00 p.m./Friday	Entire length, except for valid permit holders
Cedar Avenue	South	8:00 a.m. to 4:00 p.m./school days	From a point 195 feet east From High Street to a point 175 east therefrom

Name of Street	Side	Hours/ Days	Location
Chestnut Street [Added 12-6-2011 by Ord. No. O-11-079; amended 7-14-2026 by Ord. No. O-26-25]	South	7:00 a.m. to 9:00 a.m./Monday to Friday	Between Midland Avenue and Park Street
Chestnut Street [Repealed 11-12-2007 by Ord. No. 07-48]			
College Avenue [Added 11-12-2013 by Ord. No. O-13-59]	East	4:00 p.m. to 9:00 a.m./All when Montclair public schools are open	From Brainard Street to a point 130 feet south thereof
College Avenue [Added 11-12-2013 by Ord. No. O-13-59]	East	12:00 noon to 11:59 p.m./All when Montclair public schools are not open	From Brainard Street to a point 130 feet south thereof
College Avenue [Added 4-20-2010 by Ord. No. O-10-023]	West	8:00 a.m. to 2:00 p.m. and 4:00 p.m. to 10:00 p.m./Monday to Thursday; 8:00 a.m. to 2:00 p.m. and 4:00 p.m. to 6:00 p.m./Friday	From Amherst Place to Hamilton Terrace, except for valid permit holders
College Avenue [Added 3-9-2010 by Ord. No. O-10-010; repealed 11-29-2016 by Ord. No. O-16-045]			
College Avenue [Added 11-29-2016 by Ord. No. O-16-045]	West	8:00 a.m. to 10:00 p.m./Monday to Thursday and 8:00 a.m. to 6:00 p.m./Friday to Sunday	From Mt. Hebron Road to the end of the cul-de-sac after Hamilton Terrace, except for valid permit holders and 30-minute parking permitted on school days
College Avenue [Amended 11-27-2001 by Ord. No. 01-51; 3-9-2010 by Ord. No. O-10-010; 4-20-2010 by Ord. No. O-10-023]	West	8:00 a.m. to 10:00 p.m./Monday to Thursday and 8:00 a.m. to 6:00 p.m./Friday	From Hamilton Terrace to Normal Avenue
Essex Avenue [Added 9-9-2008 by Ord. No. 08-27]	East	All/Saturday and Sunday	From Chestnut Street to Champlain Terrace
Essex Avenue [Added 9-9-2008 by Ord. No. 08-27]	West	All/Monday to Friday	From Chestnut Street to Champlain Terrace

Name of Street	Side	Hours/ Days	Location
Hamilton Terrace [Repealed 11-29-2016 by Ord. No. O-16-045]			
Hamilton Terrace [Added 11-29-2016 by Ord. No. O-16-045]	South	8:00 a.m. to 10:00 p.m./Monday to Thursday and 8:00 a.m. to 6:00 p.m./Friday to Sunday	Entire length, except for valid permit holders and 30-minute parking permitted on school days
Lloyd Road [Amended 11-12-2007 by Ord. No. 07-47]	West	8:00 a.m. to 6:00 p.m./Monday to Friday	From a point 616.75 feet south of Bloomfield Avenue to a point 475 feet south thereof
Lorraine Avenue	South	8:00 a.m. to 4:00 p.m./All	From Park Street to Norwood Avenue
Maple Avenue [Added 5-24-2016 by Ord. No. O-16-016]	East	7:00 a.m. to 4:00 p.m. when Montclair public schools are open	From a point 565 feet south of Bloomfield Avenue to a point 95 feet south therefrom
Midland Avenue [Added 2-8-2005 by Ord. No. 05-04]	West	9:00 a.m. to 4:00 p.m./Monday to Friday	From the northerly curblin of Chestnut Street to a point 370 feet north therefrom
Munn Street	North	8:00 a.m. to 4:00 p.m./Monday to Friday	Entire length
North Fullerton Avenue [Added 8-16-2011 by Ord. No. O-11-48]	West	8:30 to 9:00 a.m./school days	Between Garden Street and Fairfield Street
North Fullerton Avenue	West	8:00 a.m. to 6:00 p.m./All	From Rand Place to Chestnut Street
Norwood Avenue	East	8:00 a.m. to 4:00 p.m./All	From Bellevue Avenue north to Lorraine Avenue
Orange Road	East	8:00 a.m. to 4:00 p.m./Monday to Friday	From Bloomfield Avenue south to Church Street
Orange Road	West	8:00 a.m. to 4:00 p.m./Monday to Friday	From No. 30 south to Hillside Avenue
Park Street	Both	2 hrs: 8:00 a.m. to 4:00 p.m./Monday to Friday	From Mt. Hebron Road to Alexander Avenue
Park Street [Added 12-19-2023 by Ord. No. O-23-42]	West	7:30 a.m. to 8:15 a.m. and 2:30 p.m. to 3:30 p.m./school days	From Haddon Place to Inwood Avenue
Upper Mountain Avenue	East	4:00 p.m. to 6:00 p.m./All	From Bellevue Avenue to Braemore Road
Upper Mountain Avenue	West	7:00 a.m. to 7:00 p.m./All	From Normal Avenue to the town line (Little Falls)

Name of Street	Side	Hours/ Days	Location
Valley Road [Added 3-9-2010 by Ord. No. O-10-008]	Both	8:00 a.m. to 4:00 p.m./Monday to Friday	From Macopin Road to Mount Hebron Road, except for valid permit holders* ¹⁷⁷
Valley Road	East	4:00 p.m. to 6:00 p.m./All	From 100 feet north of Montague Place to Claremont Avenue
Valley Road [Added 3-9-2010 by Ord. No. O-10-008]	East	8:00 a.m. to 4:00 p.m./Monday to Friday	From a point 40 feet north of Mount Hebron Road to a point 360 feet north therefrom, except for valid permit holders* ¹⁷⁸
Walnut Street Lot [Added 5-22-2012 by Ord. No. O-12-34]	Adja-cent to Walnut Street and Rail-road Station	2:00 a.m. to 3:00 p.m./Saturday	Parking lot bounded by Walnut Street and Depot Square
Washington Avenue	Both	7:00 a.m. to 9:00 a.m./All	From Orange Road to Willowdale Avenue

§ 327-18.1. On-street permit parking for Board of Education employees. [Added 3-9-2010 by Ord. No. O-10-008; amended 12-18-2012 by Ord. No. O-12-68]

- A. Notwithstanding the provisions of § 327-18, any vehicle displaying a valid Board of Education parking permit issued in accordance with this section shall be entitled to park on those streets designated with an asterisk(*)¹⁷⁹ and during the times listed above on any weekday when the Montclair public schools are open.
- B. The Township is hereby authorized to issue parking permits to employees of the Montclair Board of Education in accordance with regulations to be adopted and administered by the Township. Any vehicle displaying a valid parking permit shall be allowed to park on those streets designated with an asterisk(*)¹⁸⁰ and during the times listed above. Such parking shall be subject to all general restrictions and regulations of the Township of Montclair and the State of New Jersey.
- C. Any person violating any of the provisions of this section shall, upon conviction thereof, be subject to a fine and other penalties in accordance with the violation and penalties section of Chapter 230 of the Code of the Township of Montclair.¹⁸¹

§ 327-19. No stopping or standing certain hours.

No person shall stop or stand a vehicle between the times specified upon any of the following described streets or parts of streets:

¹⁷⁷.Editor's Note: See § 327-18.1.

¹⁷⁸.Editor's Note: See § 327-18.1.

¹⁷⁹.Editor's Note: See § 327-18.

¹⁸⁰.Editor's Note: See § 327-18.

¹⁸¹.Editor's Note: See Ch. 230, Parking Lots.

Name of Street	Side	Hours/ Days	Location
Chestnut Street [Added 12-6-2011 by Ord. No. O-11-081]	North	All/All	Between Midland Avenue and Park Street
Lloyd Road [Added 7-21-2015 by Ord. No. O-15-015]	West	8:00 a.m. to 8:30 a.m. and 2:45 p.m. to 3:15 p.m./ School days	From Parkhurst Place to the north side of the driveway at 38 Lloyd Road
Park Street [Added 3-6-2012 by Ord. No. O-12-13]	Both	All/All	From Chestnut Street north for 663 feet

§ 327-19.1. No parking special permit areas. [Added 8-25-2015 by Ord. No. O-15-021]

No person, with the exception of a person holding a special permit valid for the time and precise location, shall park a vehicle between the times specified on any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Chestnut Street	North	8:00 a.m. to 2:00 p.m.; School days	From 40 feet west of North Fullerton Avenue to 101 feet west of North Fullerton Avenue
Label Street [Added 8-15-2023 by Ord. No. O-23-25]	South	8:00 a.m. to 4:00 p.m./school days	Between Christopher Street and Montclair Avenue
North Fullerton Avenue	West	8:00 a.m. to 2:00 p.m.; School days	From 50 feet north of Chestnut Street to 110 feet north of Chestnut Street
Oxford Street [Added 8-15-2023 by Ord. No. O-23-25]	North	8:00 a.m. to 4:00 p.m./school days	Between Grove Street and Christopher Street
Seymour Street [Added 8-15-2023 by Ord. No. O-23-25]	East	12:00 a.m. to 11:59 p.m./all	From a point 42 feet north of Roosevelt Place to a point 195 feet north therefrom

§ 327-20. Time limit parking.

- A. No person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

Name of Street	Side	Time Limit; Hours/ Days	Location
Alexander Avenue [Added 11-12-2013 by Ord. No. O-13-57]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Alexander Avenue west to the dead end
Alexander Avenue [Added 8-20-2002 by Ord. No. 02-36]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Entire block between Norwood Avenue and Park Street
Alexander Avenue [Added 8-20-2002 by Ord. No. 02-36]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Entire block between Valley Road and Norwood Avenue
Amherst Place [Added 3-9-2010 by Ord. No. O-10-007]	South	30 minutes; 2:00 p.m. to 4:00 p.m./Monday through Friday when Montclair public schools are open	Entire length
Baldwin Street [Added 12-29-2009 by Ord. No. O-075-09]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Glenridge Avenue to the Township boundary line
Baldwin Street [Added 5-20-2003 by Ord. No. 03-29]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Entire length
Bay Street	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 40 feet north from Sherman Street to a point 54 feet north therefrom
Braemore Road	West	3 hrs.; All/All	Entire length
Brainard Street [Added 3-9-2010 by Ord. No. O-10-007]	North	30 minutes; 2:00 p.m. to 4:00 p.m./Monday through Friday when Montclair public schools are open	Entire length
Brunswick Road [Added 1-8-2008 by Ord. No. 07-58]	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	From Midland Avenue to Central Avenue
Cambridge Road [Added 3-10-2015 by Ord. No. O-15-004]	South	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	East from Grove Street to Glen Ridge line
Central Avenue	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Chestnut Street to Valley Road
Central Avenue	West	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Brunswick Road to Walnut Street

Name of Street	Side	Time Limit; Hours/ Days	Location
Chestnut Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Valley Road to Central Avenue
Chestnut Street	North	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From Central Avenue to Midland Avenue
Chestnut Street	South	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From Central Avenue to North Fullerton Avenue
Chestnut Street	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Park Street to Rand School
Christopher Street	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Walnut Street to Chestnut Street
Church Street	North	10 min.; 7:30 a.m. to 1:30 p.m. to 3:00 p.m./ Monday through Friday	From a point 36.00 feet west from the intersection point of northerly curblines of Church Street and westerly curblines of Valley Road to a point 228 feet north therefrom
Claremont Avenue [Added 4-6-2010 by Ord. No. O-10-020]	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 60 feet east of Grove Street to Cloverhill Place
Claremont Avenue [Added 4-6-2010 by Ord. No. O-10-020]	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Pine Street to Walnut Crescent
Claremont Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Valley Road to Cottage Place
Claremont Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From No. 204 to No. 206
Claremont Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 78 Avenue feet east from North Fullerton Avenue to Grove Street
Claremont Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 92 feet east from Valley Road to a point 233 feet east therefrom
Cloverhill Place [Added 4-10-2007 by Ord. No. 07-15]	East	4 hrs; 8:00 a.m. to 6:00 p.m./Monday through Friday	From a point 69 feet north of Glenridge Avenue to Claremont Avenue

Name of Street	Side	Time Limit; Hours/ Days	Location
College Avenue [Added 3-9-2010 by Ord. No. O-10-007]	East	2 hrs; 8:00 a.m. to 2:00 p.m./Monday through Friday when Montclair public schools are open; 8:00 a.m. to 4:00 p.m./Monday through Friday when Montclair public school are not open	From Brainard Street to a point 130 feet south therefrom
College Avenue [Added 3-9-2010 by Ord. No. O-10-007]	East	30 minutes; 2:00 p.m. to 4:00 p.m./Monday through Friday when Montclair public schools are open	From Brainard Street to a point 130 feet south therefrom
College Avenue [Added 3-9-2010 by Ord. No. O-10-007]	West	30 minutes; 2:00 p.m. to 4:00 p.m./Monday through Friday when Montclair public schools are open	From Mt. Hebron Road to Amherst Place
Cottage Place	East	1 hr.; 8:00 a.m. to 4:00 p.m./ All	Entire length
Cottage Place	West	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Claremont Avenue south for 257 feet
Elizabeth Road	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 135 feet north from LaSalle Road to a point 129 feet north therefrom
Elm Street [Added 6-11-2002 by Ord. No. 02-21]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 120 feet north of Elmwood Avenue to a point 355 feet north therefrom
Elm Street [Added 6-11-2002 by Ord. No. 02-21]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 75 feet north of Fulton Street to a point 144 feet north therefrom
Elm Street [Amended 6-11-2002 by Ord. No. 02-21]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 128 feet north of Hawthorne Place to 334 feet north therefrom
Elm Street [Added 6-11-2002 by Ord. No. 02-21]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 48 feet south of Union Street to a point 167 feet south therefrom

Name of Street	Side	Time Limit; Hours/ Days	Location
Elston Road	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Norwood Avenue to Valley Road
Emerson Place [Added 11-12-2002 by Ord. No. 02-50]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Entire length
Erwin Park Road	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Essex Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Garden Street to Fairfield Street
Fairfield Street	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Montclair Avenue to North Fullerton Avenue
Forest Street [Amended 10-19-2010 by Ord. No. O-10-064; 11-9-2010 by Ord. No. O-10-065; 4-5-2011 by Ord. No. O-11-010]	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Glenridge Avenue to Claremont Avenue
Forest Street [Added 4-5-2011 by Ord. No. O-11-010]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Claremont Avenue to Label Street
Forest Street [Added 4-5-2011 by Ord. No. O-11-010]	West	4 hrs.; 8:00 a.m. to 6:00 p.m./All	From Claremont Avenue to Label Street
Frederick Street	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Fulton Street [Added 8-3-2010 by Ord. No. O-10-039]	North	10 mins.; 7:30 a.m. to 9:00 a.m. and 3:00 p.m. to 4:30 p.m./Monday through Friday	From a point 375 feet east of Elm Street to a point 100 feet east therefrom
Garden Street	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Gates Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Union Avenue to Hawthorne Place
Gates Avenue [Added 10-19-2010 by Ord. No. O-10-064]	East	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From a point 390 feet south of Bloomfield Avenue to Union Street
Gates Avenue [Added 10-19-2010 by Ord. No. O-10-064]	West	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Bloomfield Avenue to Union Street
George Street	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length

Name of Street	Side	Time Limit; Hours/ Days	Location
Glenridge Avenue [Added 2-4-2003 by Ord. No. 03-4]	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 215 feet east of Grove Street to the town line
Glenridge Avenue	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Pine Street to Baldwin Street
Glenridge Avenue	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Pine Street to a point 215 feet east of Grove Street
Gordonhurst Avenue [Amended 6-18-2013 by Ord. No. O-13-26]	South	4 hrs.; 8:00 a.m. to 6:00 p.m./All	From North Fullerton Avenue to Park Street
Grant Street [Added 8-18-2009 by Ord. No. O-039-09]	North	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Pine Street east for 288 feet
Greenwood Avenue	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Grove Street	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Grove Terrace to Willard Place
Grove Street [Added 10-19-2010 by Ord. No. O-10-064]	East	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Oxford Street to Ardsley Road
Grove Street	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From No. 70 north to Walnut Street
Grove Street [Added 10-19-2010 by Ord. No. O-10-064]	West	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Oxford Street to Ardsley Road
Grove Terrace [Amended 4-10-2007 by Ord. No. 07-15]	North	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From a point 64 feet east of Grove Street to Cloverhill Place
Hartley Street	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Highland Avenue [Added 2-26-2013 by Ord. No. O-13-05]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Mt. Hebron Road to a point 550 feet south therefrom between September 1 and April 30
Highland Avenue [Added 6-10-2003 by Ord. No. 03-35]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday to Friday	Normal Avenue to Mount Hebron Road
Highland Avenue [Added 3-30-2004 by Ord. No. 04-12]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday to Friday	From Normal Avenue to the Township line

Name of Street	Side	Time Limit; Hours/ Days	Location
Hillside Avenue	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From No. 39 west to South Mountain Avenue
Hillside Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From St. Luke's Place to South Mountain Avenue
Holland Terrace	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Inness Place	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Inwood Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Valley Road to Norwood Avenue
James Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Jerome Place [Added 8-12-2013 by Ord. No. O-13-35]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 62 feet east of Upper Mountain Avenue to a point 100 feet west therefrom
Jerome Place [Added 8-12-2013 by Ord. No. O-13-35]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 382 feet east of Upper Mountain Avenue to the railroad crossing
Jerome Place [Amended 8-12-2013 by Ord. No. O-13-35]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 228 feet west of Valley Road to the railroad crossing
Jerome Place [Added 8-12-2013 by Ord. No. O-13-35]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 222 feet east of Upper Mountain Avenue to a point 100 feet east therefrom
Jerome Place [Added 8-12-2013 by Ord. No. O-13-35]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 68 feet west of Valley Road to a point 100 feet west therefrom
Label Street	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Christopher Street to Montclair Avenue
Label Street [Added 4-5-2011 by Ord. No. O-11-011]	South	4 hrs.; 8:00 a.m. to 6:00 p.m./All	From Forest Street to Frink Street
Lasalle Road	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Elizabeth Road to the cul-de-sac
Laurel Place	North	1 hr.; 8:00 a.m. to 4:00 p.m./All	From Valley Road to Laurel Place Plaza

Name of Street	Side	Time Limit; Hours/ Days	Location
Laurel Place [Added 4-24-2001 by Ord. No. 01-18]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Entire block between Upper Mountain Avenue and Mountainside Park
Laurel Place	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Valley Road to Laurel Place Plaza
Lorraine Avenue	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 252 feet east from a Valley Road to Norwood Avenue
Lorraine Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 285 feet west of Norwood Avenue to a point 638 feet west therefrom
Macopin Avenue	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Maple Avenue [Added 1-10-2006 by Ord. No. 05-72]	Both	4 hrs.; 8:00 a.m. to 4:00 a.m./Monday through Friday	From Bloomfield Avenue to Woodland Avenue
Marion Road	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Midland Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Portland Place to Chestnut Street
Midland Avenue [Amended 5-8-2001 by Ord. No. 01-34; 2-8-2005 by Ord. No. 05-04]	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	From a point 370 feet north of the northerly curbline of Chestnut Street to Watchung Avenue
Montague Place	North	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From a point 273 feet east from Valley Road to a point 35 feet east therefrom
Montague Place	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Mt. Hebron Road [Amended 9-27-2005 by Ord. No. 05-43; repealed 3-9-2010 by Ord. No. O-10-009]			
Mt. Hebron Road [Amended 3-9-2010 by Ord. No. O-10-009]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Valley Road to railroad crossing and from railroad crossing to Upper Mountain Avenue
Mt. Hebron Road [Added 2-14-2006 by Ord. No. 06-02]	South	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Upper Mountain Avenue to Highland Avenue

Name of Street	Side	Time Limit; Hours/ Days	Location
Munn Street	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Myrtle Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 85 feet west of Orange Road west for 119 feet west therefrom
Nassau Road	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
New Street	East	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From Bloomfield Avenue to Washington Street
Norman Road	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
North Fullerton Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Chestnut Street for 821 feet north therefrom
North Fullerton Avenue	Both	4 hrs.; 8:00 a.m. to 6:00 p.m./All	From Fairfield Street to Watchung Avenue
North Fullerton Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Watchung Avenue to Gordonhurst Avenue
North Fullerton Avenue	East	1 hr.; All/ All	From a point 71 feet from Fairfield Street to a point 60 feet north therefrom
North Fullerton Avenue [Amended 8-16-2011 by Ord. No. O-11-47]	East	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Garden Street north to Fairfield Street
North Fullerton Avenue	West	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From Fairfield Street north to the Municipal Lot
North Fullerton Avenue [Added 8-16-2011 by Ord. No. O-11-47]	West	2 hrs; 8:00 a.m. to 4:00 p.m./All except school days	From Garden Street north to Fairfield Street
North Fullerton Avenue [Added 8-16-2011 by Ord. No. O-11-47]	West	2 hrs; 9:00 a.m. to 4:00 p.m./School days	From Garden Street north to Fairfield Street
North Fullerton Avenue	West	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Munn Street to Rand Place
North Fullerton Avenue [Added 7-27-2004 by Ord. No. 04-39]	West	15 mins.; 8:00 a.m. to 6:00 p.m./All	From a point 33 feet north from Watchung Avenue to a point 84 feet north therefrom

Name of Street	Side	Time Limit; Hours/ Days	Location
North Fullerton Avenue [Added 1-27-2026 by Ord. No. O-25-65]	West	30 mins.; 8:00 a.m. to 4:00 p.m./Monday through Friday	From a point 610 feet south of railroad crossing to a point 100 feet thereafter
North Mountain Avenue	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Bellevue Avenue to Lorraine Avenue
North Mountain Avenue	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Parkside to Bellevue Avenue
North Willow Street	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Glenridge Avenue to Claremont Avenue
Northview Avenue	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Norwood Avenue [Added 5-19-2015 by Ord. No. O-15-012]	East	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Between Lorraine Avenue and Inwood Avenue
Oakwood Avenue	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Orange Road	East	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 146 feet north from Plymouth Street to a point to 60 feet north therefrom
Orange Road	East	10 min.; 7:30 a.m. to 9:00 p.m. and 1:30 p.m. to 3:00 p.m./ Monday through Friday	From a point 377.00 feet north from the intersection point of the northerly curblin of Church Street and easterly curblin of Orange Road to a point 138.00 feet north therefrom
Oxford Street [Added 11-17-2014 by Ord. No. O-14-039; amended 3-10-2015 by Ord. No. O-15-006]	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	East from Grove Street to Glen Ridge line
Oxford Street [Repealed 11-17-2014 by Ord. No. O-14-039]			
Oxford Street	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Grove Street to Christopher Street

Name of Street	Side	Time Limit; Hours/ Days	Location
Park Street [Added 5-14-2013 by Ord. No. O-13-16]	Both	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Gordonhurst Avenue to Wildwood Avenue
Park Street	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From a point 101 feet south from Walnut Street to a point 90 feet south therefrom
Park Street	East	1 hr.; All/ All	From a point 143 feet north from Watchung Avenue to Gordonhurst Avenue
Park Street	West	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From Watchung Avenue to Gordonhurst Avenue
Park Street	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Montague Place south for 100 feet south therefrom
Pine Street [Amended 3-8-2011 by Ord. No. O-11-006]	East	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Entire length
Pine Street [Amended 3-8-2011 by Ord. No. O-11-006]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Glenridge Avenue to a point 339 feet north therefrom
Pine Street [Added 3-8-2011 by Ord. No. O-11-006]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From a point 659 feet north of Glenridge Avenue to Claremont Avenue
Plymouth Street [Repealed 5-22-2012 by Ord. No. O-12-39]			
Plymouth Street	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 164 feet west from South Fullerton Avenue to a point 44 east from Trinity Place
Plymouth Street	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 92 feet west from South Fullerton Avenue to a point 35 feet east from Wilde Place
Plymouth Street	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 35 feet west from Wilde Place to a 35 east from Trinity Place

Name of Street	Side	Time Limit; Hours/ Days	Location
Plymouth Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 40 west from Trinity Place to Orange Road
Portland Place	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Park Street to Valley Road
Potter Court	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Valley Road to dead-end
Prospect Terrace	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Roosevelt Place	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Roswell Terrace	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Russell Terrace [Repealed 12-19-2006 by Ord. No. 06-74]			
Seymour Street [Repealed 8-15-2023 by Ord. No. O-23-25]			
Sherman Street [Added 8-18-2009 by Ord. No. O-039-09]	South	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Entire length
South Fullerton Avenue	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Plymouth Street 174 feet south therefrom
St. Lukes Place	East	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From No. 27 north to Bloomfield Avenue
Summit Avenue	South	2 hrs.; 8:00 a.m. to 4:00 p.m.	Between Park Street and Northview Avenue
Sylvan Place	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Tremont Place [Added 9-29-2015 by Ord. No. O-15-029]	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Between Oxford Street and Tuxedo Road
Tremont Place [Added 1-19-2016 by Ord. No. O-15-045]	Both	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Tuxedo Road to Ardsley Road
Trinity Place	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Myrtle Avenue to Plymouth Street

Name of Street	Side	Time Limit; Hours/ Days	Location
Tuxedo Road [Added 1-19-2016 by Ord. No. O-15-045]	South	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Grove Street to Tremont Place
Union Street	North	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From South Fullerton Avenue to Elm Street
Union Street	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From South Fullerton Avenue to Wilde Place
Upper Mountain Avenue [Added 6-12-2012 by Ord. No. O-12-43]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Laurel Place to Mt. Hebron Road between September 1 and April 30
Upper Mountain Avenue [Added 2-21-2012 by Ord. No. O-12-03]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Mt. Hebron Road to Normal Avenue between September 1 and April 30
Upper Mountain Avenue [Added 2-14-2006 by Ord. No. 06-02]	West	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Mt. Hebron Road to Normal Avenue (excluding designated no parking areas)
Valley Road [Added 3-5-2002 by Ord. No. 02-05]	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	From Oakwood Avenue North to Mt. Hebron Road
Valley Road [Added 6-11-2002 by Ord. No. 02-17; amended 3-9-2010 by Ord. No. O-10-009]	East	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	From a point 400 feet north of Mt. Hebron Road to Normal Avenue
Valley Road	West	1 hr.; 8:00 a.m. to 6:00 p.m./ All	From Mountain View Place south for 359 feet
Valley Road	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Jerome Place south for 114 feet
Valley Road	West	10 min.; 7:30 a.m. to 9:00 a.m. and 1:30 p.m. to 3:00 p.m./ Monday through Friday	From a point 42.00 feet north from the intersection point of northerly curblane of Church Street and westerly curblane of Valley Road to a point 104 feet north therefrom
Vera Place	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	Entire length
Walden Place	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length

Name of Street	Side	Time Limit; Hours/ Days	Location
Walnut Crescent	West	2 hrs.; 8:00 a.m. to 6:00 p.m./All	From Walnut Street to Oxford Street
Walnut Parkway	Both	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Walnut Street	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Pine Street to Walnut Crescent
Walnut Street	Both	1 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 270 feet east from Grove Street to Pine Street
Warfield Street [Added 4-24-2001 by Ord. No. 01-31]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Entire block between Upper Mountain Avenue and Highland Avenue
Washington Street [Amended 8-3-2010 by Ord. No. O-10-041]	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From a point 297 feet east of Elm Street to New Street
Washington Street [Amended 8-3-2010 by Ord. No. O-10-041]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Elm Street to New Street
Watchung Avenue [Added 9-9-2003 by Ord. No. 03-65]	North	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From North Fullerton Avenue to Montclair Avenue
Watchung Avenue [Added 1-22-2002 by Ord. No. 02-01; amended 10-19-2010 by Ord. No. O-10-064]	North	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From a point 35 feet east of Valley Road to Park Street
Watchung Avenue [Amended 1-22-2002 by Ord. No. 02-01]	North	2 hrs.; 10:00 a.m. to 4:00 p.m./All	From a point 377 feet east from Valley Road to a point 85 feet east therefrom
Watchung Avenue [Added 9-9-2003 by Ord. No. 03-66]	South	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday]	From North Fullerton Avenue to Montclair Avenue
Watchung Avenue [Added 1-22-2002 by Ord. No. 02-01]	South	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	From Valley Road to Midland Avenue
Waterbury Road [Added 7-20-2010 by Ord. No. O-10-035]	East	4 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Entire length
Wellesley Road	North	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Valley Road to Norwood Avenue

Name of Street	Side	Time Limit; Hours/ Days	Location
Wilde Place	West	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Plymouth Street to Union Street
Wildwood Avenue [Repealed 1-28-2014 by Ord. No. O-13-75]			
Wildwood Avenue [Amended 1-28-2014 by Ord. No. O-13-75]	Both	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Valley Road to Park Street
Wildwood Avenue [Amended 1-28-2014 by Ord. No. O-13-75]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./All	From Park Street to North Fullerton Avenue
Willard Place	South	2 hrs.; 8:00 a.m. to 6:00 p.m./All	Entire length
Windsor Place [Added 4-24-2001 by Ord. No. 01-30]	South	2 hrs.; 8:00 a.m. to 4:00 p.m./Monday through Friday	Entire block between Upper Mountain Avenue and Highland Avenue
Yale Terrace [Added 12-27-2001 by Ord. No. 01-53]	South	2 hrs.; 8:00 a.m. to 6:00 p.m./Monday through Friday	Entire length

- B. This section shall not apply to any no parking areas designated pursuant to § 327-16 or 327-18 of the Township Code or pursuant to any other no parking regulations adopted by the Township. **[Added 3-28-2006 by Ord. No. 06-12]**

§ 327-20.1. Towaway zones; removal of vehicles. [Added 5-22-2012 by Ord. No. O-12-34; amended 4-7-2015 by Ord. No. O-15-010]

- A. Any unoccupied vehicle parked or standing in violation of this chapter in a zone identified below is deemed a nuisance and a menace to the safe and proper regulation of traffic, and any police or parking enforcement officer may provide for the removal of such vehicles. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.
- B. Towaway zones:
- (1) Public parking lot bounded by Walnut Street and Depot Square adjacent to the Walnut Street railroad station.
 - (2) Every designated on-street or off-street handicap parking space pursuant to § 327-24.
 - (3) Parking spaces reserved for mobile vendors pursuant to § 337-4D.
 - (4) Any portions of streets designated in Section 327-19.1 on the days and during the times when parking is prohibited. **[Added 8-25-2015 by Ord. No. O-15-021]**
- C. This section does not limit the authority to remove vehicles pursuant to any other provision of this chapter, or any ordinance or statute.

§ 327-21. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

Name of Street	Side	Angle (degrees)	Location
		(Reserved)	

§ 327-22. Loading zones. [Amended 11-27-2001 by Ord. No. 01-50; 4-8-2003 by Ord. No. 03-22; 4-8-2003 by Ord. No. 03-23; 9-23-2003 by Ord. No. 03-60; 6-21-2005 by Ord. No. 05-30; 6-21-2005 by Ord. No. 05-31; 9-26-2006 by Ord. No. 06-53; 6-24-2008 by Ord. No. 08-21; 4-7-2009 by Ord. No. O-006-09; 6-9-2009 by Ord. No. O-027-09; 9-22-2009 by Ord. No. O-057-09; 10-20-2009 by Ord. No. O-062-09; 7-20-2010 by Ord. No. O-10-036; 8-3-2010 by Ord. No. O-10-040; 10-19-2010 by Ord. No. O-10-060; 10-19-2010 by Ord. No. O-10-063; 12-28-2010 by Ord. No. O-10-076; 8-12-2013 by Ord. No. O-13-40; 3-15-2016 by Ord. No. O-16-009; 2-20-2018 by Ord. No. O-18-004; 3-20-2018 by Ord. No. O-18-014; 5-18-2021 by Ord. No. O-21-13; 11-26-2024 by Ord. No. O-24-34; 11-12-2025 by Ord. No. O-25-44; 5-19-2026 by Ord. No. O-26-18; 7-14-2026 by Ord. No. O-26-26]

A. The following described locations are hereby designated as commercial loading zones:

Name of Street	Side	Location
Bloomfield Avenue	North	From a point 155 feet west from North Willow Street to a point 35 feet west therefrom
Bloomfield Avenue	North	From a point 194 feet east from Glenridge Avenue to a point 44 feet east therefrom
Bloomfield Avenue	North	From a point 188 feet west from North Fullerton Avenue to a point 53 feet west therefrom
Bloomfield Avenue	North	From Park Street east for 93 feet
Bloomfield Avenue	North	From a point 97 feet west of Midland Avenue to a point 59 feet west therefrom
Bloomfield Avenue	North	From a point 203 feet east of North Willow Street to a point 68 feet east therefrom
Bloomfield Avenue	North	From the intersection of Maple Place to a point 46 feet therefrom
Bloomfield Avenue	North	From a point 61 feet west from the intersection of Seymour Street to a point 35 feet west therefrom
Bloomfield Avenue	South	From a point 124 feet east from South Park Street to a point 64 feet east therefrom
Bloomfield Avenue	South	From northerly line of Maple Place Parking Plaza east for 117 feet
Bloomfield Avenue	South	From a point beginning 111 feet west of the western side of the curb bump-out for the Seymour Street pedestrian plaza to a point 79 feet west therefrom

Name of Street	Side	Location
Church Street	North	From a point 200 feet east from South Park Street to a point 19 feet east therefrom
Church Street	North	From a point 110 feet west along Church Street from the western corner of Church Street and Bloomfield Avenue to a point 58 feet west therefrom
Church Street	South	From a point 75 feet west from Trinity Place to a point 19 feet west therefrom
Elm Street	East	From a point 164 feet from Washington Street to a point 65 feet north therefrom
Gates Avenue	East	From Bloomfield Avenue to a point 390 feet south therefrom
Glenridge Avenue	North	From a point 25 feet east from Bloomfield Avenue to a point 95 feet east therefrom
Glenridge Avenue	North	From a point 74 feet east from the easterly curblineline of Forest Street to a point 38 feet east therefrom
Glenridge Avenue	North	From a point 84 feet east from the intersection of Greenwood Avenue to a point 64 feet west therefrom
Grove Street	East	From a point 35 feet north from Walnut Street to a point 49 feet north therefrom
Maple Avenue	West	From a point 108 feet north of Lexington to a point 50 feet north thereof
Midland Avenue	East	From a point 140 feet north from Bloomfield Avenue to a point 45 feet north therefrom
Mission Street	East	From a point 274 feet south from Bloomfield Avenue to a point 25 feet south therefrom
North Fullerton Avenue	East	From a point 48 feet north from Bloomfield Avenue to a point 90 feet north therefrom
Park Street	East	From a point 75 feet north from Bloomfield Avenue to a point 45 feet north therefrom
Park Street	West	From a point 29 feet north from Bloomfield Avenue to a point 91 feet north therefrom
Pine Street	East	From a point 156 feet north from Sherman Street to a point 45 feet north therefrom
South Park Street	West	From the extended southerly curblineline of Church Street to a point 60 feet south therefrom
South Willow Street	West	From a point 60 feet south from Bloomfield Avenue to a point 55 feet south therefrom
The Crescent	South	From a point 59 feet west of South Fullerton Avenue to a point 50 feet west therefrom
Valley Road	West	From Preston Place north for 70 feet

Name of Street	Side	Location
Valley Road	West	From a point 208 feet south from Bloomfield Avenue to a point 48 feet south therefrom
Van Vleck Street	North	From a point 63 feet west of Valley Road to a point 94 feet west therefrom

- B. School bus loading and unloading. The locations described below are hereby designated as school bus stops. No vehicle other than an omnibus, picking up or discharging passengers, shall be permitted to occupy said location between the hours indicated:

Name of Street	Side	Hours/Days	Location
Orange Road	East	7:30 a.m. to 9:00 a.m. and 1:30 p.m. to 3:00 p.m./Monday through Friday	From a point 35 feet north from the intersection point of the northerly curblineline of Church Street and easterly curblineline of Orange Road to a point 84 feet north therefrom
Washington Street	North	8:30 a.m. to 9:30 a.m. and 2:30 p.m. to 3:30 p.m./Monday through Friday (school days only)	From a point 82 feet east of Elm Street to a point 215 feet east therefrom

- C. Other school loading and unloading. The locations described below are hereby designated as other school loading and unloading zones. Any vehicle picking up or discharging passengers, goods or merchandise to or from a school shall be permitted to occupy said location between the hours indicated:

Name of Street	Side	Hours/Days	Location
Maple Avenue	West	7:00 a.m. to 6:00 p.m./Monday through Friday	From a point 471 feet south from Bloomfield Avenue to a point 74 feet south therefrom

- D. Designated commercial loading zones shall be utilized solely for the active delivery and receipt of goods and merchandise to or from retail merchants, personal service establishments or other business establishments, between the hours of 7:00 a.m. and 10:00 p.m., Sunday through Saturday (excluding legal holidays), unless otherwise specifically authorized. No other person shall park a vehicle in a designated loading zone between the hours of 7:00 a.m. and 10:00 p.m., Sunday through Saturday (excluding legal holidays). Parking shall be permitted in loading zones at all other times, including legal holidays, unless otherwise prohibited under Chapter 327 of the Township Code.
- E. Designated other school loading and unloading zones shall be utilized solely for the active drop-off or pickup of children or delivery of goods to the school facility, between the hours designated in § 327-22C, unless otherwise specifically authorized. Parking shall be permitted in school loading zones at all other times, including Sundays and legal holidays, unless otherwise prohibited under Chapter 327 of the Township Code.
- F. Authorized vehicles may park in a designated loading zone for no longer than 20 minutes, and such vehicles shall display the vehicle's hazard warning lights while lawfully utilizing a loading zone. The

Township shall install appropriate signs for all designated loading zones which shall include the hours during which said zones may be utilized only for the loading and unloading of persons, goods and merchandise as set forth herein.

§ 327-22.1. Dropoff zones. [Added 5-18-2021 by Ord. No. O-21-13]

A. The following described locations are hereby designated as dropoff zones:

Name of Street	Side	Location
Bloomfield Avenue	South	From a point beginning at the western end of the curb bump-out for the Seymour Street pedestrian plaza to a point 42.4 feet west therefrom
Church Street	North	From a point 168 feet along Church Street from the western corner of Church Street and Bloomfield Avenue to a point 38 feet west therefrom

B. Designated dropoff zones are solely for the dropoff and pickup of persons. Parking is prohibited at all times in dropoff zones, unless otherwise noted. Standing with the driver remaining in the vehicle is permitted for a maximum of five minutes.

§ 327-23. Taxi stands.

The following described locations are hereby designated as taxi stands:

Name of Street	Side	Location
Bloomfield Avenue	North	From 120 feet west of Bell Street for a length of 35 feet, except between 4:00 p.m. and 6:00 p.m. on weekdays
Hartley Street	East	From 25 feet south of Bloomfield Avenue for a length of 65 feet
Lackawanna Plaza	East	From a point 77 feet north of Bloomfield Avenue to a point 88 feet north thereof

§ 327-23.1. Bus stops. [Amended 4-10-2001 by Ord. No. 01-14; 4-8-2003 by Ord. No. 03-24; 3-20-2018 by Ord. No. O-18-015]

The following described locations are hereby designated as bus stops pursuant to N.J.S.A. 39:4-8(e). No vehicle other than an omnibus, picking up or discharging passengers, shall be permitted to occupy said location between the hours indicated.

Name of Street/Location	Hours
Bloomfield Avenue, eastbound at:	
A. Lloyd Road/far side. Beginning at the easterly curblane of Lloyd Road and extending 112 feet easterly therefrom.	All

Name of Street/Location	Hours
B. St. Luke's Place/near side. Beginning at the westerly curblin of St. Luke's Place and extending 107 feet westerly therefrom.	All
C. Valley Road/near side. Beginning at the westerly curblin of Valley Road and extending 129 feet westerly therefrom.	All
D. South Park Street/near side. Beginning at the westerly curblin of South Park Street and extending 119 feet westerly therefrom.	All
E. Church Street/near side. Beginning at the westerly curblin of Church Street and extending 153 feet westerly therefrom.	All
F. Seymour Street/far side. Beginning at the easterly curblin of Seymour Street and extending 110 feet easterly therefrom.	All
G. Gates Avenue/near side. Beginning at the westerly curblin of Gates Avenue and extending 115 feet westerly therefrom.	All
H. Hartley Street/near side. Beginning at the westerly curblin of Hartley Street and extending 111 feet westerly therefrom.	All
I. Maple Avenue/near side. Beginning at the westerly curblin of Maple Avenue and extending 125 feet westerly therefrom.	All
Bloomfield Avenue, westbound at:	
A. Pine Street/near side. Beginning at the easterly curblin of Pine Street and extending 105 feet easterly therefrom.	All
B. Hartley Street/midblock. Beginning at the extension of the easterly curblin of Hartley Street and extending 135 feet westerly therefrom.	All
C. Lackawanna Plaza/near side. Beginning at the easterly curblin of Lackawanna Plaza and extending 116 feet easterly therefrom.	All
D. North Willow Street/near side. Beginning at the easterly curblin of North Willow Street and extending 128 feet easterly therefrom.	All
E. Glenridge Avenue/near side. Beginning at the easterly curblin of Glenridge Avenue and extending 112 feet easterly therefrom.	All
F. Maple Place/near side. Beginning at the easterly curblin of Maple Place and extending 116 feet easterly therefrom.	All
G. Valley Road/near side. Beginning 114 feet from the easterly curblin of Valley Road and extending 80 feet easterly therefrom.	All
H. Bell Street/near side. Beginning at the easterly curblin of Bell Street and extending 168 feet easterly therefrom.	All
I. North Mountain Avenue/far side. [Added 5-22-2012 by Ord. No. O-12-38]	All

Name of Street/Location	Hours
J. Opposite Lloyd Road/midblock. [Added 5-22-2012 by Ord. No. O-12-38]	All
K. Opposite Rockledge Road/midblock. [Added 5-22-2012 by Ord. No. O-12-38]	All
Chestnut Street, westbound: [Added 3-20-2018 by Ord. No. O-18-015]	
A. Beginning at a point 100 feet west from the northwest corner of Park Street and extending 135 feet west therefrom	All
Church Street, eastbound: [Added 10-16-2012 by Ord. No. O-12-54; repealed 8-12-2013 by Ord. No. O-13-39]	
Church Street, westbound: [Added 11-10-2015 by Ord. No. O-15-033]	
A. From a point 148 feet south and west from Bloomfield Avenue to a point 55 feet west therefrom	7:00 a.m. to 7:00 p.m./Monday through Saturday
Elm Street, northbound: [Added 2-16-2016 by Ord. No. O-16-001]	
A. Lincoln Street/near side. Beginning from the southerly curblane of Lincoln Street and extending 105 feet southerly therefrom	All
B. Elmwood Avenue/far side. Beginning from the northerly curblane of Elmwood Avenue and extending 105 feet northerly therefrom	All
C. Washington Street/near side. Beginning from the southerly curblane of Washington Street and extending 105 feet southerly therefrom	All
Elm Street, southbound: [Added 2-16-2016 by Ord. No. O-16-001]	
A. Union Street/far side. Beginning from the southerly curblane of Union Street and extending 105 feet southerly therefrom	All
B. Hawthorne Place/near side. Beginning from the northerly curblane of Hawthorne Place and extending 105 feet northerly therefrom	All
C. Llewellyn Road/near side. Beginning from the northerly curblane of Llewellyn Road and extending 105 feet northerly therefrom	All
Harrison Avenue, northbound: [Added 4-20-2004 by Ord. No. 04-17; amended 5-24-2016 by Ord. No. O-16-014]	
A. Virginia Avenue/far side. Beginning at the northerly curblane of Virginia Avenue and extending 100 feet northerly therefrom	All
B. Charles Street/near side. Beginning at the southerly curblane of Charles Street and extending 105 feet southerly therefrom	All
C. Cedar Avenue/near side. Beginning at the southerly curblane of Cedar Avenue and extending 105 feet southerly therefrom	All

Name of Street/Location	Hours
D. Llewellyn Road/near side. Beginning at the southerly curblin of Llewellyn Road and extending 105 feet southerly therefrom	All
E. Warren Place/near side. Beginning at the southerly curblin of Warren Place and extending 105 feet southerly therefrom	All
F. Gates Avenue/near side. Beginning at the southerly curblin of Gates Avenue and extending 105 feet southerly therefrom	All
G. Union Street/near side. Beginning at the southerly curblin of Union Street and extending 105 feet southerly therefrom	All
Harrison Avenue, southbound: [Added 5-24-2016 by Ord. No. O-16-014]	
A. Porter Place/far side. Beginning at the southerly curblin of Porter Place and extending 100 feet southerly therefrom	All
B. Gates Avenue/near side. Beginning at the northerly curblin of Gates Avenue and extending 105 feet northerly therefrom	All
C. Warren Place/far side. Beginning at the southerly curblin of Warren Place and extending 100 feet southerly therefrom	All
D. Llewellyn Road/near side. Beginning at the northerly curblin of Llewellyn Road and extending 105 feet northerly therefrom	All
E. Tichenor Place/far side. Beginning at the prolongation of the southerly curblin of Tichenor Place and extending 100 feet southerly therefrom	All
F. Warman Place/near side. Beginning at the northerly curblin of Warman Place and extending 105 feet northerly therefrom	All
Normal Avenue, eastbound at: [Added 8-4-2009 by Ord. No. O-038-09; amended 4-25-2017 by Ord. No. O-17-016]	
A. Carlisle Road/far side. Beginning at the easterly curblin of Carlisle Road and extending 138 feet easterly therefrom (past Montclair Heights rail station exit road)	All
Normal Avenue, westbound at: [Added 8-4-2009 by Ord. No. O-038-09; amended 4-25-2017 by Ord. No. O-17-016]	
A. Upper Mountain Avenue/near side. Beginning at the easterly curblin of Upper Mountain Avenue and extending 105 feet easterly therefrom	All
Orange Road, northbound: [Added 12-14-2004 by Ord. No. 04-66; amended 2-16-2016 by Ord. No. O-16-001]	
A. Brooklawn Road/far side. Beginning from the northerly curblin of Brooklawn Road and extending 105 feet northerly therefrom	All
B. Pleasant Way/near side. Beginning from the southerly curblin of Pleasant Way and extending 105 feet southerly therefrom	All

Name of Street/Location	Hours
C. Canterbury Drive/near side. Beginning from the southerly curblineline of Canterbury Drive and extending 105 feet southerly therefrom	All
D. Linden Avenue/near side. Beginning from the southerly curblineline of Linden Avenue and extending 105 feet southerly therefrom	All
E. Washington Street/near side. Beginning at the southerly curblineline of Washington Street and extending 105 feet southerly therefrom	All
F. Draper Terrace/far side. Beginning from the northerly curblineline of Draper Terrace and extending 105 feet northerly therefrom	All
G. Centoverde Road/near side. Beginning from the southerly curblineline of Centoverde Road and extending 105 feet northerly therefrom [Added 5-24-2016 by Ord. No. O-16-014; amended 8-23-2016 by Ord. No. O-16-026]	All
Orange Road, southbound: [Added 2-16-2016 by Ord. No. O-16-001]	
A. Carey Court/near side. Beginning from the northerly curblineline of Carey Court and extending 105 feet northerly therefrom	All
B. Pleasant Way/far side. Beginning from the southerly curblineline of Pleasant Way and extending 105 feet southerly therefrom	All
C. Between Brooklawn Road and Rosedale Avenue/midblock. Beginning 60 feet north of the prolongation of the northerly curblineline of Brooklawn Road and extending 135 feet northerly therefrom [Amended 5-23-2017 by Ord. No. O-17-020]	All
D. Between Bloomfield Avenue and Hillside Avenue/midblock. Beginning 338 feet south of the southerly curblineline of Bloomfield Avenue and extending 135 feet southerly therefrom [Added 5-24-2016 by Ord. No. O-16-014]	All
E. Hitchcock Place/near side. Beginning at the northerly curblineline of Hitchcock Place and extending 105 feet northerly therefrom [Added 5-23-2017 by Ord. No. O-17-020]	All
Orange Road West, southbound at:	
A. Cedar Avenue/near side. Beginning at the northerly curblineline of Cedar Avenue and extending 105 feet northerly therefrom	All
B. Vicinity of 340 Orange Road/midblock. Beginning at a point 1,040 feet south of the southerly curblineline of Cedar Avenue and extending 135 feet southerly therefrom [Added 2-16-2016 by Ord. No. O-16-001]	All
Park Street, northbound at: [Added 9-13-2005 by Ord. No. 05-45; amended 11-13-2006 by Ord. No. 06-60; 11-12-2025 by Ord. No. O-25-45]	

Name of Street/Location	Hours
A. Munn Street/far side. Beginning at a point 198 feet from the northerly curbline of Bloomfield Avenue and extending 120 feet northerly therefrom	All
Park Street, southbound at: [Added 9-13-2005 by Ord. No. 05-45; amended 11-13-2006 by Ord. No. 06-60; 11-12-2025 by Ord. No. O-25-45]	
A. Portland Place/far side. Beginning at the southerly curbline of Portland Place and extending 120 feet southerly therefrom	All
Valley Road, southbound: [Added 3-20-2012 by Ord. No. O-12-15]	
A. From a point 565 feet south of Bloomfield Avenue to a point 100 feet south therefrom.	All
Watchung Avenue, eastbound at:	
A. Watchung Plaza (west leg)/far side. Beginning at the easterly curbline of Watchung Plaza (west leg) and extending 155 feet easterly therefrom.	All

§ 327-24. Handicapped parking. [Last amended 8-25-2015 by Ord. No. O-15-023¹⁸²]

- A. On-street handicapped parking spaces. No person shall park a vehicle in the parking spaces described below unless said person has been issued a special vehicle identification card by the Division of Motor Vehicles:

Name of Street	Side	Location
Bellevue Avenue	South	Metered parking space closest to the first driveway east of Valley Road
Bloomfield Avenue	North	Metered parking space closest to a driveway alongside the building at 295 Bloomfield Avenue
Bloomfield Avenue	South	Metered parking space closest to the ramp near 578 Bloomfield Avenue
Bloomfield Avenue	South	Third metered parking space east of the intersection of Orange Road and Bloomfield Avenue
Bloomfield Avenue [Repealed 5-18-2021 by Ord. No. O-21-12]		
Bloomfield Avenue [Added 5-18-2021 by Ord. No. O-21-12]	South	From a point 213 feet west of Seymour Street to a point 20 feet west therefrom

182. Editor's Note: Subsequent amendments noted where applicable.

Name of Street	Side	Location
Church Street	North	Metered parking space one-way portion closest to the corner of South Park Street
Edgemont Road	East	From a point 334 feet north of Berkeley Place to a point 22 feet therefrom
Edgemont Road	East	Closest parking space to the northwest corner of the Park
Edgemont Road	East	The northern edge of the macadam pathway entrance to the parkland that is the closest to but not at its intersection with Parkway
Glenridge Avenue	North	From a point 188 feet east from the easterly curbline of Greenwood Avenue to a point 22 feet east therefrom
High Street	West	Closest parking space to Cedar Avenue
High Street	West	Closest parking space to the northern end of the tennis courts
Lackawanna Plaza	East	2 parking spaces: the first and last metered parking spaces on the section of Lackawanna Plaza that borders the Plaza surrounded by Greenwood Avenue, Glenridge Avenue, and Lackawanna Plaza
Lackawanna Plaza	West	1 parking space, at the southeast end closest to the intersection of Greenwood and Glenridge Avenues, of the most eastern row of parking spaces at the Plaza
Maple Avenue	East	Closest parking space to the northern edge of the crosswalk at Elmwood Avenue
Midland Avenue	East	First metered parking space from the Midland Avenue intersection with Bloomfield Avenue
North Fullerton Avenue	East	From a point 602 feet south from Champlain Terrace to a point 22 feet south therefrom
North Fullerton Avenue	West	Metered parking space closest to Bellevue Avenue
North Willow Street	East	First metered parking space from North Willow Street intersection with Bloomfield Avenue
Orange Road	East	Metered parking space in front of 313 Orange Road (on the block between Washington Avenue and Cedar Avenue)

Name of Street	Side	Location
Orange Road [Added 9-19-2017 by Ord. No. O-17-030]	West	From a point 145 feet south of Cedar Avenue to a point 19 feet south therefrom
Parkside Road	North	Closest parking space to the western edge of the crosswalk at Edgemont Road
Parkside Road	North	Closest parking space to the eastern edge of the crosswalk at Princeton Place
Park Street	East	Metered parking space closest to and south of the private driveway alongside the YMCA building at 25 Park Street
Park Street [Added 8-16-2022 by Ord. No. O-22-21]	East	83 Park Street (vicinity adjacent to the curb cut in front of the house)
Planchet Drive	South	From a point beginning 40 feet from the eastern edge of the macadam path to a point 65 feet therefrom
Plymouth Street	South	From a point 70 feet west from South Fullerton Avenue to a point 22 feet south therefrom
Seymour Street [Added 4-8-2025 by Ord. No. O-25-08]	East	From a point 260 feet north of Roosevelt Place to a point 22 feet north therefrom
South Fullerton Avenue [Amended 4-10-2018 by Ord. No. O-18-018]	East	Two spaces beginning at a point 100 feet south from the southeast corner of Union Street to a point 100 feet therefrom
South Fullerton Avenue [Repealed 5-18-2021 by Ord. No. O-21-12]		
South Fullerton Avenue [Added 5-18-2021 by Ord. No. O-21-12]	West	First parking space south of The Crescent
Squirrel Hill Road	West	At the point closest to the macadam path into the park
St. Luke's Place [Added 6-13-2022 by Ord. No. O-22-13]	West	22 St. Luke's Place (vicinity of)
Stonehenge Road	South	At the closest point to the western edge of the macadam path driveway at the farthest point on Stonehenge Road from its intersection with Alexander Avenue
Trinity Place	West	From a point 50 feet north of Plymouth Street to a point 25 feet north therefrom

Name of Street	Side	Location
Upper Mountain Avenue	East	Eastern side of the crescent driveway at the northern end of the parkland
Valley Road	East	Metered parking space closest to the corner of Cooper Avenue
Valley Road	West	Metered parking space closest to the corner of Bellevue Avenue
Walnut Street	North	Metered parking space closest to the east side of Frink Street at its intersection with Walnut Street
Walnut Street	South	First metered space from the corner of Grove Street
Walnut Street [Amended 9-29-2015 by Ord. No. O-15-027]	South	From a point 192 feet west from Grove Street to a point 97 feet west therefrom limited to Monday through Friday during the hours of 8:00 a.m. to 5:00 p.m.
Watchung Avenue	South	Metered parking space closest to the southwest corner of North Fullerton Avenue
Watchung Plaza	Northeast	Metered parking space closest to the southeast corner of Watchung Avenue
William Street [Added 8-23-2016 by Ord. No. O-16-028]	North	From a point 108 feet east from Valley Road to a point 20 feet east therefrom
Woodland Avenue	North	Closest parking space to the western edge of the crosswalk at Wheeler Street

B. Off-street handicapped parking spaces

- (1) It is the policy of the Township that all municipal parking lots and parking decks shall contain parking spaces designated as restricted parking spaces for use by persons who have been issued special vehicle identification cards by the New Jersey Motor Vehicle Commission. No other person shall be permitted to park in the spaces so reserved. The specific locations of these spaces shall be in areas of the parking lot or facility most accessible and approximate to the building or buildings or area served by the lot or facility. The number of reserved spaces and their specific location shall be determined by the Township in accordance with all applicable legal requirements, including the requirements of N.J.S.A. 52:32-12. The Township shall erect or install, in all municipal parking lots and parking decks, proper signs calling attention to the provisions of this section.
- (2) Without limiting the scope of Subsection B(1) above, the following off-street parking spaces are designated as handicap spaces. No person shall park a vehicle in the parking spaces described below unless said person has been issued a special vehicle identification card by the Division of Motor Vehicles:

Lot	Number of Handicapped Parking Spaces
Bellevue-Lorraine Parking Lot	3 adjacent spaces, 1 of which shall be van-accessible
Bellevue Parking Plaza	5 parking spaces, 2 of which shall be van-accessible
Edgemont Park Parking Lot	1 van-accessible space
Fairfield Plaza Lot	2 spaces, 1 of which shall be van-accessible
Fullerton Parking Deck	7 spaces, including 2 van-accessible spaces
Grove Street Parking Lot	3 parking spaces, 1 of which shall be van-accessible
Laurel Parking Plaza	1 van-accessible space
Maple Plaza Parking Lot	5 spaces, 1 of which shall be van-accessible
Midtown Parking Plaza	5 spaces, 1 of which shall be van-accessible
Montague Parking Plaza	2 spaces, 1 of which shall be van-accessible
Plymouth Parking Plaza	6 spaces, 2 of which shall be van-accessible
[Amended 11-12-2025 by Ord. No. O-25-46]	
Portland Parking Plaza	1 van-accessible space
Rand Park Parking Lot	1 van-accessible
South Fullerton Parking Lot	6 spaces, 1 of which shall be van-accessible
South Willow Parking Plaza	4 spaces, 1 of which shall be van-accessible
Upper Montclair Parking Plaza	4 spaces, 1 of which shall be van-accessible
Valley Road Parking Plaza	5 spaces, 1 of which shall be van-accessible
Walnut Street Station/Depot Square	4 spaces, 1 of which is van-accessible
Watchung Plaza Parking Lot	5 spaces, 1 of which shall be van-accessible

C. Regulations for situating an on-street handicapped parking space adjacent to a residence. The following criteria and procedures shall govern the establishment of a handicapped parking space on a residential street: **[Added 8-23-2016 by Ord. No. O-16-028]**

- (1) The handicapped parking space (HPS) must be requested by or on behalf of a person residing on the subject property who has been issued a currently valid handicapped parking permit.
- (2) The residential property adjacent to where the HPS is located must be without a driveway or available off-street parking.
- (3) No other HPS's can be located within 200 feet of the proposed HPS.
- (4) The HPS will be removed if and when the person for whom the permit has been issued no longer resides on the property.
- (5) The requestor must submit an application for the HPS, and an annual renewal statement attesting

that the requirements for an HPS continue to be met.

- (6) The HPS cannot be situated where parking is prohibited.
- (7) The HPS must comply and be established in accordance with N.J.S.A. 39:4-197.6.

§ 327-24.1. Parking allowed in accordance with regulations. [Added 1-25-2005 by Ord. No. 04-73]

- A. Lawful parking on the streets of the Township of Montclair shall be allowed in accordance with the regulations prescribed herein.
- B. General regulations; parking near driveways; marking of spaces and parking stalls. Parking is prohibited within two feet of the edges of all driveways in the Township. The Department of Community Services shall have the authority to extend this distance to a maximum of four feet from the edge of a driveway. In such case, the Department of Community Services shall have lines or markings placed on the curb and/or on the street or such other identification as it shall deem appropriate, indicating no parking. When marking is installed, no person shall park any vehicle across any such line or marking or space or park any vehicle in such position that it shall not be entirely within the area so designated by such lines or markings. The governing body may in particular cases, by resolution, authorize the Department of Community Services to prohibit parking at a distance greater than four feet from the edge of a driveway. **[Amended 8-12-2014 by Ord. No. O-14-024]**
- C. Violations.
 - (1) It shall be unlawful and a violation of the provisions of this section for any person to:
 - (a) Park any vehicle across any line or marking of a parking space or park in such position that the vehicle shall not be entirely within the area designated by such lines or markings.
 - (b) Deface, injure, tamper with, or willfully destroy or impair the usefulness of any marking installed under the provisions of this article.
 - (2) Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed \$500 or by imprisonment in the Essex County jail for a period not to exceed 90 days, or by both such fine and imprisonment.

ARTICLE IV

Emergency No Parking

[Amended 12-6-2011 by Ord. No. O-11-078; 2-21-2012 by Ord. No. O-12-02; 2-2-2016 by Ord. No. O-16-005]

§ 327-25. No parking on snow-covered streets.

- A. It is the purpose and intent of this section, in the interests of public safety and the general welfare of the Township, to facilitate snow removal from curb to curb on public streets of the Township as efficiently and expeditiously as possible after a snowfall.
- B. Notwithstanding any regulation to the contrary, no person shall park a vehicle upon either side of any public street or allow any portion of a vehicle to extend into the roadway at any time when snow has covered the roadway sufficient to obscure road markings.
- C. The above parking prohibition shall remain in effect for a period of 12 hours after the snow has ceased, subject to extension by the Township Manager in the event that snow has not been completely cleared.
- D. As used in this section, the term "snow" shall mean any precipitation depositing any accumulation on the public streets of the Township, including, without limitation, snow, sleet, hail or ice.
- E. Regulatory and warning signs in accordance with N.J.S.A. 39:4-138 shall be erected and maintained at major street entrances to the Township for motor vehicles. Signs for exempt streets shall be posted as applicable. Notice of said parking prohibition shall be deemed adequate when posted on the Township website and available via prerecorded phone message.
- F. The Manager shall have the authority, at his or her discretion, to waive or modify parking regulations, including hourly limits, meter and permit fees and parking prohibitions, at all municipally owned or controlled parking lots or decks during a declared snow emergency or at such time as storm warnings have been issued by a recognized weather service or a reasonable basis otherwise exists to anticipate an accumulation of snow greater than two inches.

§ 327-26. No parking during general emergency.

- A. Upon the declaration of an emergency, there shall be no parking upon streets or parts of streets where temporary emergency no-parking signs are displayed. The Chief of Police, or in his absence the ranking police officer, is authorized to declare an emergency and to direct the posting of said emergency no-parking signs when weather conditions, accidents, fires or public celebrations dictate or require the avoidance of hazards or other conditions which interfere with the free flow of traffic.
- B. Notification that the emergency no-parking signs are being or will be posted shall be given to the operator or owner of any vehicle which has been parked prior to the posting of the signs.

§ 327-27. Removal of vehicles.

Any unoccupied vehicle parked or standing in violation of this article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic, and any peace officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage, which may result from such removal, before regaining possession of the vehicle.

§ 327-28. Effectiveness of article; violations and penalties.

Any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine of \$100 for the first offense, and a fine not to exceed \$500 for each offense thereafter occurring within six months of the previous offense. 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.

ARTICLE V
Metered Parking

§ 327-29. Definitions.

The following words and phrases, which are not defined in Subtitle 1 of Title 39 of the New Jersey Statutes Annotated, shall have the meanings respectively ascribed to them in this section for purposes of this article:

PARKING METER —

- A. Any mechanical or electronic multispace device or meter not inconsistent with this article placed or erected for the regulation of parking by authority of this article. Each "parking meter" installed shall indicate by proper legend the legal parking time established by the terms of this article and, when operated, shall at all times indicate the balance of legal parking time and, at the expiration of such period, shall indicate illegal or overtime parking.
- B. An "electronic multispace meter box" shall be defined as a meter box placed on a pedestal whose time and parking space number display are activated by the deposit of the appropriate coin or coins or the insertion of a magnetic stripe card in lieu of actual coinage.

PARKING METER SPACE — Any space within a parking meter zone, which is adjacent to a parking meter and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street or lot adjacent to or adjoining the parking meters.

PARKING METER ZONE — Any restricted on-street parking area or off-street parking lot upon which parking meters are installed and in operation.

§ 327-30. Designation of parking spaces. [Amended 6-15-2004 by Ord. No. 04-34]

The Director of Community Services is hereby directed and authorized to provide for the marking off of individual parking spaces in the parking meter zones designated and described in § 327-38, said parking spaces to be designated by lines painted or marked on the curbing or surface of the street or lot. At each space so marked off, it shall be unlawful to park any vehicle in such a way that said vehicle shall not be entirely within the limits of the space so designated.

§ 327-31. Installation of parking meters and parking pay stations. [Amended 6-15-2004 by Ord. No. 04-34; 12-18-2012 by Ord. No. O-12-68]

In said parking meter zones, the Parking Utility, or the Township if the meters/pay stations are within the jurisdiction of the Township, shall cause parking meters or pay stations to be installed upon the curb, sidewalk or area immediately adjacent to the parking spaces provided in § 327-32 of this article. No parking meters or pay stations shall be installed in areas where parking is prohibited pursuant to the provisions of N.J.S.A. 39:4-138. The Parking Utility, or the Township if the meters/pay stations are within the jurisdiction of the Township, shall be responsible for the regulation, control, operation, maintenance and use of such parking meters/pay stations. Each device shall be so set as to display a signal showing legal parking upon the deposit of the appropriate coin, lawful money of the United States of America, credit card for the period of time prescribed in § 327-34. Each device shall be so arranged that upon the expiration of the lawful time limit, it will indicate by a proper, visible signal that the lawful parking period has expired, and in such case the right of such vehicle to occupy such space shall cease, and the operator, owner, possessor or manager thereof shall be subject to the penalties hereinafter provided. Each electronic multispace meter, when activated, shall alternately display the license plate number of the vehicle and the expiration time.

§ 327-32. Operation of parking meters. [Amended 11-12-2025 by Ord. No. O-25-47]

Except in a period of emergency determined by an officer of the Fire or Police Department, or in compliance with the directions of a police officer or traffic control sign or signal, when any vehicle shall be parked in any parking space alongside or next to which a parking meter is located, the operator of such vehicle shall, upon entering the said parking meter space, immediately deposit or cause to be deposited in said meter such proper coin of the United States of America as is required for such parking meter and as is designated by proper directions on the meter, and when required by the directions on the meter, the operator of such vehicle, after the deposit of the proper coin, shall also set in operation the timing mechanism on such meter in accordance with directions properly appearing thereon, and failure to deposit such proper coin and to set the timing mechanism in operation when so required shall constitute a violation of this article. Upon the deposit of such coin or the payment with a credit card (and the setting of the timing mechanism in operation when so required), the parking space may be lawfully occupied by such vehicle during the period of time which has been prescribed for the part of the street in which said parking space is located, provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin so long as his occupancy of said space does not exceed the indicated unused parking time. If said vehicle shall remain parked in any such parking space beyond the parking time limit set for such parking space and if the meter shall indicate such illegal parking, then and in that event such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this article.

§ 327-33. Manner of parking.

- A. When a parking meter space is parallel with the adjacent curb or sidewalk, no person shall park or permit the parking of any vehicle in such parking space in any other position than with the foremost part of such vehicle nearest to the parking meter; when a parking meter space is diagonal to the curb or sidewalk, no person shall park or permit the parking of any vehicle in such parking space in any other position than with the foremost part of such vehicle nearest to the parking meter; when a parking meter shall have been installed at the head of and immediately adjacent to any parking space on a municipal off-street parking lot, no person shall park or permit the parking of any vehicle in such parking space in any other position than with the foremost part of such vehicle nearest to the parking meter; provided, however, that in municipal off-street parking lots, signs shall be erected indicating that "head-on" parking only is permitted. In any event, a vehicle shall be parked within the lines marked on the pavement measuring such parking space.
- B. Handicapped parking. In spaces so designated by proper signage indicating handicapped parking, only those motor vehicles exhibiting license plates designating the handicapped status of the same shall be entitled to occupy said space.
- C. Any person parking a motor vehicle in a restricted parking space without a special vehicle identification card shall be liable to a fine of \$250 for the first offense and, for subsequent offenses, a fine of at least \$250 and up to 90 days' community service on such terms and in such form as the court shall deem appropriate, or any combination thereof. **[Amended 10-14-2003 by Ord. No. 03-69]**

§ 327-34. Violations.

- A. It shall be unlawful and a violation of the provisions of this article for any person to:
 - (1) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for any parking

meter zone as herein described, or to deposit in any parking meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter zone.

- (2) Permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while said meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space.
- (3) Park any vehicle across any line or marking of a parking meter space or in such position that the vehicle shall not be entirely within the area designated by such lines or markings.
- (4) Deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this article.
- (5) Deposit or cause to be deposited in any parking meter any slug, device or metal substance or other substitute for lawful coins.
- (6) Park or permit the parking of any vehicle in any parking meter space where the meter does not register lawful parking.

B. Any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed \$500 or by imprisonment in the Essex County jail for a period not to exceed 90 days, or by both such fine and imprisonment.

§ 327-35. Collection of coins from meters; disposition thereof. [Amended 2-20-2007 by Ord. No. 07-5; 12-18-2012 by Ord. No. O-12-68]

It shall be the duty of the Township to designate some proper person or persons to make regular collections of the moneys deposited in said meters, and it shall be the duty of such person or persons so designated to remove from the parking meters the locked containers therein containing the coins so deposited in said meters and to deliver such locked containers to the Township, which shall unlock them and count the funds contained in such containers and deposit such funds in the usual manner provided by law.

§ 327-36. Parking meter zones. [Amended 1-16-2001 by Ord. No. 00-66; 6-11-2002 by Ord. No. 02-22; 8-20-2002 by Ord. No. 02-37; 5-25-2004 by Ord. No. 04-23; 9-26-2006 by Ord. No. 06-52; 2-20-2007 by Ord. No. 07-5; 6-24-2008 by Ord. No. 08-22; 6-24-2008 by Ord. No. 08-23; 1-6-2009 by Ord. No. 08-53; 6-9-2009 by Ord. No. O-028-09; 9-22-2009 by Ord. No. O-056-09; 12-29-2009 by Ord. No. O-074-09; 4-6-2010 by Ord. No. O-10-016; 4-5-2011 by Ord. No. O-11-009; 12-18-2012 by Ord. No. O-12-68; 2-12-2013 by Ord. No. O-13-02; 8-12-2013 by Ord. No. O-13-41; 9-6-2016 by Ord. No. O-16-033; 6-20-2017 by Ord. No. O-17-022; 4-23-2019 by Ord. No. O-19-014; 4-12-2023 by Ord. No. O-23-12; 11-12-2025 by Ord. No. O-25-48; 5-19-2026 by Ord. No. O-26-17¹⁸³]

A. On-street parking meter zones.

- (1) In accordance with § 327-32, parking or standing a vehicle in a parking meter space in the on-street parking meter zones described below shall be lawful between the hours of 9:00 a.m. to 10:00 p.m., Monday through Saturday only upon the deposit of such amount (the "meter rate") as is indicated for each specified period of time.
- (2) The meter rate for all on-street metered parking spaces is \$1.50 per hour (or any portion thereof) for both pay stations and single-space meters.

183.Editor's Note: Amendments to individual street entries noted where applicable.

- (3) The on-street parking meter zones shall include the following streets or parts of streets as described below.

Name of Street	Side	Hours/Days	Location
Bellevue Avenue	Both	9:00 a.m. to 10:00 p.m.	From Northview Avenue to Valley Road
Bloomfield Avenue	Both	9:00 a.m. to 10:00 p.m.	From Lackawanna Plaza to North Willow Street
Bloomfield Avenue	Both	9:00 a.m. to 10:00 p.m.	From Bell Street to North Mountain Avenue
Bloomfield Avenue	Both	9:00 a.m. to 10:00 p.m.	From North Willow Street to Glenridge Avenue
Bloomfield Avenue	Both	9:00 a.m. to 10:00 p.m.	From Valley Road to Bell Street
Bloomfield Avenue	North	9:00 a.m. to 10:00 p.m.	From Glen Ridge Avenue to Pine Street
Bloomfield Avenue	North	9:00 a.m. to 10:00 p.m.	From a point 333 feet east of Grove Street to a point 256 feet west therefrom
Bloomfield Avenue	North	9:00 a.m. to 10:00 p.m.	From Midland Avenue to Valley Road
Bloomfield Avenue	North	9:00 a.m. to 10:00 p.m.	From a point 50 feet west of North Fullerton Avenue to a point 140 feet westerly therefrom
Bloomfield Avenue	North	9:00 a.m. to 10:00 p.m.	From Park Street to Midland Avenue
Bloomfield Avenue	North	9:00 a.m. to 10:00 p.m.	From Pine Street to Hartley Street
Bloomfield Avenue	South	9:00 a.m. to 10:00 p.m.	From Park Street to Valley Road
Bloomfield Avenue	South	9:00 a.m. to 10:00 p.m.	From South Fullerton Avenue to Maple Avenue
Bloomfield Avenue	South	9:00 a.m. to 10:00 p.m.	From South Fullerton Avenue to Park Street
Church Street	Both	9:00 a.m. to 10:00 p.m.	From South Park Street to Trinity Place
Church Street	South	9:00 a.m. to 10:00 p.m.	From a point 178 feet east from Orange Road to a point 180 feet therefrom
Church Street	South	9:00 a.m. to 10:00 p.m.	From a point 94 feet west from Trinity Place to a point 36 feet therefrom
Cooper Avenue	South	9:00 a.m. to 10:00 p.m.	From a point 50 feet east of Valley Road to a point 200 feet east therefrom
Depot Square	East	9:00 a.m. to 10:00 p.m.	From a point 29 feet north of Walnut Street to a point 110 feet north thereof
Depot Square	West	9:00 a.m. to 10:00 p.m.	From Label Street to Walnut Street

Name of Street	Side	Hours/Days	Location
Elm Street	East	9:00 a.m. to 10:00 p.m.	From a point 35 feet from Washington Street to a point 129 feet north therefrom, and from a point 229 feet from Washington Street to a point 100 feet therefrom
Elm Street	West	9:00 a.m. to 10:00 p.m.	From a point 53 feet from Union Street to a point 118 feet north therefrom
Fairfield Street	South	9:00 a.m. to 10:00 p.m.	From North Fullerton Avenue to Watchung Plaza
Gates Avenue	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Union Street
Glenridge Avenue	Both	9:00 a.m. to 10:00 p.m.	From Forest Street to Bloomfield Avenue
Glenridge Avenue	Both	9:00 a.m. to 10:00 p.m.	From Grove Street to Greenwood Avenue
Glenridge Avenue	North	9:00 a.m. to 10:00 p.m.	From Greenwood Avenue to Lackawanna Plaza
Glenridge Avenue	North	9:00 a.m. to 10:00 p.m.	From North Willow Street to Forest Street
Greenwood Avenue	East	9:00 a.m. to 10:00 p.m.	From Lackawanna Plaza to Glenridge Avenue
Grove Street	East	9:00 a.m. to 10:00 p.m.	From Walnut Street to Oxford Street
Label Street	Both	9:00 a.m. to 10:00 p.m.	From Depot Square to Forest Street
Lackawanna Plaza	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Glenridge Avenue
Lorraine Avenue	North	9:00 a.m. to 10:00 p.m.	From Bellevue-Lorraine Lot to Valley Road
Lorraine Avenue	North	9:00 a.m. to 10:00 p.m.	From Valley Road to Braemore Road
Midland Avenue	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Portland Place
North Fullerton Avenue	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Munn Street
North Fullerton Avenue	East	9:00 a.m. to 10:00 p.m.	From a point feet south of Claremont Avenue to a point 397
North Willow Street	East	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Glenridge Avenue
Orange Road	Both	9:00 a.m. to 10:00 p.m.	From Washington Avenue to Cedar Avenue
Park Street	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Portland Place

Name of Street	Side	Hours/Days	Location
Park Street	Both	9:00 a.m. to 10:00 p.m.	Near Watchung Avenue
Pine Street	East	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Glenridge Avenue
Seymour Street	East	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to South Willow Parking Plaza
South Fullerton Avenue	West	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to The Crescent
South Fullerton Avenue	West	9:00 a.m. to 10:00 p.m.	From Plymouth Street to Union Street
South Fullerton Avenue	West	9:00 a.m. to 10:00 p.m.	From The Crescent to a point 290 feet south thereof
South Park Street	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Church Street
South Park Street	East	9:00 a.m. to 10:00 p.m.	From Church Street to The Crescent
South Park Street	West	9:00 a.m. to 10:00 p.m.	From a point 60 feet south of Church Street to The Crescent
South Willow Street	West	9:00 a.m. to 10:00 p.m.	From a point 182 feet south of Bloomfield Street to a point 226 feet south thereof
The Crescent	South	9:00 a.m. to 10:00 p.m.	From South Fullerton Avenue to Trinity Place
Trinity Place	West	9:00 a.m. to 10:00 p.m.	From Church Street to Myrtle Avenue
Valley Road	Both	9:00 a.m. to 10:00 p.m.	From Bellevue Avenue to Lorraine Avenue
Valley Road	Both	9:00 a.m. to 10:00 p.m.	From Bloomfield Avenue to Portland Place
Valley Road	Both	9:00 a.m. to 10:00 p.m.	From Cooper Avenue to Bellevue Avenue
Valley Road	Both	9:00 a.m. to 10:00 p.m.	From Lorraine Avenue to Oakwood Avenue
Valley Road	East	9:00 a.m. to 10:00 p.m.	From a point 262 feet south of Bloomfield Avenue to a point 120 feet therefrom
Valley Road	East	9:00 a.m. to 10:00 p.m.	From William Street to Van Vleck Street
Valley Road	West	9:00 a.m. to 10:00 p.m.	From Bloomfield Place to Montague Place
Valley Road	West	9:00 a.m. to 10:00 p.m.	From Church Street to Bloomfield Avenue

Name of Street	Side	Hours/Days	Location
Valley Road	West	9:00 a.m. to 10:00 p.m.	From Northview Avenue to Cooper Avenue
Walnut Street	Both	9:00 a.m. to 10:00 p.m.	From Forest Street to North Willow Street
Walnut Street	Both	9:00 a.m. to 10:00 p.m.	From North Willow Street to Grove Street
Watchung Avenue	South	9:00 a.m. to 10:00 p.m.	From North Fullerton Avenue to Watchung Plaza
Watchung Plaza		9:00 a.m. to 10:00 p.m.	Oval surrounding park between Watchung Avenue and Fairfield Street

B. Special Parking Zone. For meters in the Special Parking Zone as defined in § 327-41, the rates shall be:

- (1) \$1.50 per hour (or any portion thereof) from 9:00 a.m. to 10:00 p.m., Monday through Wednesday;
- (2) \$1.50 per hour (or any portion thereof) from 9:00 a.m. to 5:00 p.m., Monday through Saturday; and
- (3) \$3.00 per hour (or any portion thereof) from 5:00 p.m. to 10:00 p.m., Thursday through Saturday.

C. Off-street parking meter zones.

- (1) Parking or standing a vehicle in a parking meter space in the off-street parking meter zones described below shall be lawful only when not in excess of the maximum parking time indicated during the hours of operation specified, on all days except Sundays and holidays, and only upon the deposit of such amount (the "meter rate") as is indicated for each specified period of time.
- (2) Notwithstanding the provisions of Chapter 230, Parking Lots, no person shall cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in any of the following-described municipal parking lots between the hours of 2:00 a.m. and 5:00 a.m. of any day.
- (3) Except as may be provided in § 230-8 and the fee schedule referenced thereto, the fee for all off-street metered parking zones in § 327-36B is \$1 per hour.

Name of Lot (Location)	Hours/Days
Bellevue-Lorraine Parking Plaza	8:00 a.m. to 7:00 p.m.
Bellevue Parking Plaza	8:00 a.m. to 7:00 p.m.
Fairfield Parking Plaza	8:00 a.m. to 7:00 p.m.
Fullerton Park Parking Deck:	
Ground level	8:00 a.m. to 7:00 p.m.
Levels 1 through 3	8:00 a.m. to 7:00 p.m.

Name of Lot (Location)	Hours/Days
Grove Street Parking Plaza	8:00 a.m. to 7:00 p.m.
Maple Parking Plaza	8:00 a.m. to 7:00 p.m.
Maple Place Parking Plaza	8:00 a.m. to 7:00 p.m.
Midtown Parking Plaza	8:00 a.m. to 7:00 p.m.
South End Parking Plaza	8:00 a.m. to 7:00 p.m.
South Fullerton Parking Plaza	8:00 a.m. to 7:00 p.m.
South Willow Parking Plaza	8:00 a.m. to 7:00 p.m.
Upper Montclair Parking Plaza	8:00 a.m. to 7:00 p.m.
Valley Road Parking Plaza	8:00 a.m. to 7:00 p.m.

§ 327-37. Removal or immobilization of vehicles for nonpayment of parking tickets.

- A. Removal authorized. The Police Department of the Township of Montclair is hereby authorized, in accordance with N.J.S.A. 39:4-139.13, to immobilize, remove or cause to be removed any vehicle found operating or parked on a public highway, in a municipal parking lot or on other property owned, leased or under the control of the Township where there are any outstanding warrants against such vehicle. In addition to or in lieu of removal, any such vehicle may be immobilized by use of a device or other mechanism, which will cause no damage to such vehicle unless moved when such device or mechanism is in place. In any case involving immobilization of a vehicle pursuant to this section, the Chief of Police or his designee shall cause to be placed on such vehicle, in a conspicuous manner, notice sufficient to warn any individual of the effect that any attempt to move such vehicle might result in damage to such vehicle.
- B. Notice of impoundment and disposition. It shall be the duty of the Chief of Police or his designee, within 48 hours, to make every effort to ascertain the identity of the last registered owner and to notify such owner personally or by registered or certified mail of the immobilization, removal and disposition of such vehicle and all charges which must be paid by the owner to redeem the same.

§ 327-38. Impoundment and storage of vehicles.

Any such vehicle so removed shall be impounded and stored in a place designated by the Police Department and shall be held until it is redeemed or disposed of pursuant to § 327-41 below.

§ 327-39. Release or sale of vehicle.

- A. Before the owner or person in charge of any vehicle impounded pursuant to this section shall be allowed to repossess or secure the release of said vehicle, the owner or the agent of such owner shall pay all sums legally due the Township for warrants issued and outstanding against such vehicle and all sums due for towing and storage of the vehicle and an administrative fee of \$25.
- B. Any vehicle not claimed by its registered owner, or someone authorized in writing to act on behalf of the owner, by the 30th day following the day on which the vehicle was impounded or immobilized may be sold at public auction in accordance with N.J.S.A. 39:4-139.13.

ARTICLE VI
Regulation of Private Streets and Areas

§ 327-40. Carriage way and carriage place.

H & J Management located at 1 Carriage Way has filed a written request with the Township of Montclair that the provision of Subtitle One, Title 39, of the Revised Statutes of New Jersey be made applicable to the private streets, semipublic roads, streets, driveways and parking lots at One Carriage Way located in the Township of Montclair, County of Essex. The Township of Montclair has reviewed such request and determined that the same shall be approved and now sets forth the following regulations which shall be enforceable.

- A. Whenever any words and phrases are used in this section, the meaning respectively ascribed to them in Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.
- B. All vehicles must park only in designated areas and between the lines provided in accordance with the attached site plan.
- C. The above-cited approved parking locations shall contain parking spaces which are hereby designated as restricted parking for use by persons who have been issued special vehicle identification cards by the Division of Motor Vehicles. No other person shall be permitted to park in the spaces authorized under this section. Said location and designation shall be approved by the Director of Community Services. Proper signage shall be provided by the applicant. **[Amended 6-15-2004 by Ord. No. 04-34]**
- D. Any person parking a motor vehicle in a restricted parking space without a special vehicle identification card shall be liable to a fine of \$100 for the first offense and, for subsequent offenses, a fine of at least \$100 and up to 90 days' community service on such terms and in such form as the court shall deem appropriate, or any combination thereof.
- E. Stop intersections designated. In accordance with the provisions of N.J.S.A. 39:4-140, the following intersections are hereby designated as stop intersections:

Intersection	Stop Sign On
Carriage Way and South Mountain Avenue	Carriage Way

- F. Speed limits.
 - (1) The speed limits for both directions of traffic in the parking lots shall be 15 miles per hour.
 - (2) The speed limits for both directions of travel on the following roads are:

Name of Street	Speed Limit (mph)	Location
Carriage Way	15	Entire length
Carriage Place	15	Entire length

- G. Tow away zone. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic;

block entrances or exitways, loading zones, oil fills, any grass area or pedestrian walkways; or present in any way a safety or traffic hazard may be removed by towing the vehicle at the owner's or operator's expense.

H. Parking prohibited at all times

- (1) When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions or a police officer, or traffic-control device, at the following specific designated locations:

Name of Street	Side	Location
Carriage Way	North	Beginning at its intersection with the northeasterly curbline of South Mountain Avenue and running 175.1 feet east
Carriage Way	South	Beginning 145.5 feet from intersection with the southeasterly curbline of South Mountain Avenue and running 312.6 feet east
Carriage Place	Both	Entire length

- (2) Fire lanes. In accordance with the State Fire Prevention Code [N.J.A.C. 5:18-3.2(a), Article 3, Subsection F-311.0] which prohibits parking in or obstructing designated fire lanes, and in accordance with the attached site plan, when signs are erected giving notice thereof, no person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions or a police officer, or traffic control device, at the following specific designated locations:

Name of Street	Side	Location
Carriage Way	North	Beginning at a point 175.1 feet east of the intersection of the northeasterly curbline of South Mountain Avenue and continuing to a point 318.7 feet east thereof

- I. Wherever such signs, posts, bolts or other necessary materials are required to be installed, such signage shall be installed and paid for by the applicant. Work shall be checked by the Police Department to ensure installations meet state and federal specifications, and all signing shall conform to the current Manual on Uniform Traffic Control Devices.
- J. Violations. Unless another penalty is expressly provided by New Jersey Statute, every person convicted of a violation of this section or any supplement thereto shall be liable to a penalty of not more than \$100 or imprisonment for a term not exceeding 15 days, or both.

ARTICLE VII
Special Parking Zone
[Added 12-18-2018 by Ord. No. O-18-046]

§ 327-41. Special Parking Zone established.

A Special Parking Zone ("SPZ") is hereby established and shall include all streets, or parts of streets, and public parking lots within the area, bounded by and including both sides of the following streets:

South Fullerton Avenue from Hawthorne Place to Bloomfield Avenue
 North Fullerton Avenue from Bloomfield Avenue to Claremont Avenue
 Claremont Avenue from North Fullerton Avenue to Greenwood Avenue
 Greenwood Avenue from Claremont Avenue to Lackawanna Plaza
 Lackawanna Plaza from Greenwood Avenue to Bloomfield Avenue
 Gates Avenue from Bloomfield Avenue to Hawthorne Place
 Hawthorne Avenue from Gates to South Fullerton Avenue

§ 327-42. Offenses.

The following offenses occurring in the Special Parking Zone shall be punishable as provided in § 327-43.

Montclair Code	Offense	Montclair Code Cross Reference (For Information Only)
327-42.1	Forms and contents of permits	230-13
327-42.2	Display of permit	230-14
327-42.3	Day permit - lots	230-15
327-42.4	Rental permit - lots	230-16
327-42.5	Night permit - lots	230-17
327-42.6	Marked spaces - lots	230-18
327-42.7	Night permit - Lloyd Rd. Lot	230-39
327-42.8	Day permit - Lloyd Rd. Lot	230-40
327-42.9	Overnight parking	327-15
327-42.10	On-street permit	327-15B
327-42.11	Prohibited parking	327-16
327-42.12	No stopping or standing (certain streets)	327-17
327-42.13	Parking prohibited certain hours	327-18
327-42.14	No stopping or standing (Chestnut Street)	327-19

Montclair Code	Offense	Montclair Code Cross Reference (For Information Only)
327-42.15	Overtime parking	327-20
327-42.16	Designated loading zones	327-22C
327-42.17	No parking on snow covered streets	327-25
327-42.18	Emergency no parking	327-26
327-42.19	Parking meter	327-34

§ 327-43. Special Parking Zone - violations.

Violations of the parking regulations set forth in § 327-42 above occurring in the Special Parking Zone shall be punishable by a fine of not less than \$60 and not more than \$500. Upon approval of the courts, the penalties for violations of this subsection may be added to the Local Supplemental Violations Bureau Schedule.

ARTICLE VIII

Safety Sticks

[Added 11-12-2025 by Ord. No. O-25-49]

§ 327-44. Purpose.

The Township has deployed safety sticks technology at various signed locations to monitor parking activity and enforce parking regulations in certain no-parking zones such as fire hydrants, bus stops, crosswalks, drop-off zones, special parking zones, and loading zones.

§ 327-45. Violations and penalties.

Any person who violates the provisions of this section of the Code shall be punished by the fine for the appropriate offense. A separate offense shall be deemed committed on each day that the vehicle remains parked in violation of this article. No court appearance is necessary.

§ 327-46. Removal of vehicles.

Any unoccupied vehicle parked or standing in violation of this article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic, and any peace officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage, which may result from such removal, before regaining possession of the vehicle.

§ 327-47. Enforcement.

Enforcement of this article and further rules and regulations as may be promulgated from time to time shall be under the jurisdiction of the Parking Utility of the Township of Montclair.

§ 327-48. Exceptions.

- A. Nothing contained in this section shall be construed to prevent the parking of any such vehicle by any public utility company in connection with the construction, installation, operation and maintenance of public utilities, nor to prevent the temporary parking of any vehicle actively engaged in repair or maintenance work, nor to prevent the parking of vehicles attending to an emergency.
- B. Vehicles being used by municipal, county or state government for an emergency purpose or contracted by these agencies for the same purpose will be exempt.¹⁸⁴

184. Editor's Note: Former Art. IX, Temporary No-Parking Signs, added 1-27-2026 by Ord. No. O-25-63, which immediately followed this article, was repealed 7-14-2026 by Ord. No. O-26-22. See now Ch. 228, Parking, Art. II, Temporary No-Parking Signs.

MONTCLAIR CODE

Chapter 333

VENDING MACHINES

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Tobacco vending machines — See Ch. 320.

Vending machines in residential and commercial zones — See Ch. 347, §§ 347-13 and 347-14.

ARTICLE I

Licensing

[Adopted by the Board of Commissioners of the Town of Montclair 4-15-1980 by Ord. No. 80-12 as Art. VIII of Ch. 88 of the 1979 Code]

§ 333-1. Definitions.

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

ADULTERATED — Food shall be deemed or considered adulterated when found in a state or condition as described in N.J.S.A. 24:5-8, as amended.

APPROVED — Approved by the authority having jurisdiction as specified herein.

APPROVED BACTERICIDAL PROCESS OR TREATMENT — The application to clean surfaces of any method or substance for the destruction of pathogenic bacteria or other organisms so far as practicable, subject to being reasonably effective and not adversely affecting the equipment, the food or health of the consumer.

COIN-OPERATED OR SELF-SERVICE DRY-CLEANING ESTABLISHMENT OR DRY-CLEANING ESTABLISHMENT — Those premises wherein devices for the cleaning of textiles, fabrics, garments or other articles by the use of any solvent other than water are installed for and used by the general public.

COMMISSARY — Includes commissary, catering establishment, restaurant or any other place in which food, beverage, ingredients, containers or supplies are kept, handled, prepared or stored and directly from which vending machines are serviced, supplied and filled.

CUSTOMER AREA — That portion of the establishment to which the general public is permitted access.

EMPLOYEE — Any operator or any person employed by him or her in the operation, maintenance or servicing of any vending machine, or who handles any food, beverage or ingredient to be dispensed through vending machines, or who comes in contact with food contact surfaces of containers, equipment, utensils or packaging materials used in connection with vending machine operation, or who otherwise services or maintains one or more such machines.

FOOD — Any raw, cooked or processed edible substance, beverage or ingredient used or intended for use in whole or in part for human consumption.

HEALTH AUTHORITY — The Health Officer or his or her authorized representative.

HOT FOOD OR BEVERAGE — Food or beverage, the temperature of which, at the time of service to the consumer, is at least 150° F.

LAUNDERETTE — A self-service laundry establishment in which the washing and/or drying of clothing and other articles is or may be performed by a customer with the use of automatic washing machines and/or drying machines supplied by and located on the premises of such establishment, for the use of which machines a fee is charged by the operator of the establishment, and includes machines that are coin-actuated and those that are not coin-actuated.

MACHINE LOCATION — The room, enclosure, space or area where one or more vending machines are installed and operated, whether inside or outside.

MAINTENANCE AREA — That portion of the establishment to which the customer is not permitted access and which is used for general maintenance and storage purposes.

MISBRANDING — The use of any written, printed or graphic matter upon or accompanying products or containers dispensed from vending machines, including signs or placards displayed in relation to such

products so dispensed, which is false or misleading or which is misbranded within the meaning of N.J.S.A. 24:5-16.

OPERATOR — Any person who by contract or agreement, whether written, verbal or implied, or by ownership furnishes, installs, services, operates or maintains one or more vending machines.

PERSON — Any individual, partnership, corporation, company, firm, institution, trustee, association or any public or private entity.

PRODUCT CONTACT SURFACE — Any surface of the vending machine, appurtenances or containers which comes into direct contact with any food, beverage or ingredient.

READILY PERISHABLE FOODS OR PERISHABLE PRODUCTS — Any food or beverage or ingredients consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or other food capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxication. However, products in hermetically sealed containers processed by heat to prevent spoilage and dehydrated, dry or powdered products so low in moisture content as to preclude development of microorganisms are excluded from the terms of this definition.

SINGLE-SERVICE ARTICLE — Any utensil, container, implement or wrapper intended for use only once in the preparation, storage, display, service or consumption of food or beverage.

SOLVENT — Any cleaning fluid which is free of additives to mask the odor, classified by the National Board of Fire Underwriters as nonflammable at ordinary temperatures, and not more toxic than the generally accepted threshold limit value for perchlorethylene as promulgated by the American Conference of Governmental Industrial Hygienists.

VENDING MACHINE — Any self-service device offered for public use which dispenses a product, makes a service available or provides entertainment or amusement,¹⁸⁵ except that for the purpose of this article the term "vending machine" shall not be construed as including publicly owned parking meters or change makers.

§ 333-2. Permits and licenses.

- A. No person shall install a vending machine for which a permit is required until a vending machine permit therefor shall have been issued by the designated authority, and no person shall operate a vending machine for which a license is required until a vending machine license therefor shall have been issued by the designated authority. The requirements for vending machine permits and licenses and the designated issuing authorities are as follows:

Type of Vending	Permit Authority	License Authority
Laundrette installation or extension thereof	Health Officer	Health Officer
Dry-cleaning installation or extension thereof	Health Officer	Health Officer
Any installation intended to vend a readily perishable food	Health Officer	Health Officer

185.Editor's Note: See Ch. 78, Amusements

Type of Vending	Permit Authority	License Authority
Any outdoor installation intended to vend only nonperishable products or a service and occupying more than 3 square feet of ground area or being more than 2 feet in height	Superintendent of Building Inspections	No license required

- B. No vending machine permit or license shall be required for any vending machine or vending installation not described in the above tabulation, except where licenses are required for such machines or installations by ordinances heretofore or hereafter adopted. Nothing herein shall be construed as waiving or altering any of the requirements for building permits or plumbing permits as covered under other codes of the Township of Montclair.

§ 333-3. Information required for permit.

Applications for permits shall be on forms provided by the appropriate authority. A separate application shall be made for each site. Applications shall contain the following information:

- A. The applicant's full name, residence, telephone number, post office address and whether such applicant is an individual, firm or corporation. If a partnership, the names and addresses of the partners shall be included. If a corporation, the names and addresses of the officers of the corporation shall be included.
- B. The proposed location of the establishment, a floor plan showing the building outline and location of the equipment.
- C. The manufacturer of the machine or machines, the trade name and manufacturer's agent and the model, type and description of each machine.
- D. The name, address and authorized officer of the person engaged to install the equipment.
- E. The identity and form of the product or products to be dispensed through vending machines.
- F. The signature of the applicant or its authorized officer.

§ 333-4. Information required for license.

Application for licenses shall be on forms provided by the appropriate authority. The license application shall identify each machine for which a license is requested. Applications shall contain the following information:

- A. The applicant's full name, residence, telephone number, post office address and whether such applicant is an individual, firm or corporation. If a partnership, the names and addresses of the partners shall be included. If a corporation, the names and addresses of the officers of the corporation shall be included.
- B. Location of the establishment.
- C. Name or names of maintenance personnel and their telephone numbers.
- D. The location of the commissary or commissaries, if any, and of other establishments where supplies

are kept and where vending machines are repaired or renovated.

- E. The identity of each machine and the form of the product or products to be dispensed by it.
- F. The signature of the applicant or its authorized officer.

§ 333-5. Issuance of permits; inspections.

- A. Upon receipt by the Superintendent of Building Inspections of an application for a permit to install a vending machine, the Superintendent of Building Inspections shall check the proposed installation for compliance with all codes under his or her supervision and issue a vending machine installation permit and also a building permit and plumbing permit upon proper application or advise the applicant of the reason for his or her disapproval of the application. He or she shall inspect the installation from time to time during construction to ensure conformance with all applicable codes and ordinances.
- B. Upon receipt of an application for a permit for the installation of a vending machine, the Health Officer shall forthwith notify the Superintendent of Building Inspections of the receipt of the application and of pertinent details of the project. The Superintendent of Building Inspections shall then make an inspection to determine whether the proposed vending machine installation meets the requirements of Chapter 347, Zoning, the Building Code, the Plumbing Code and any provisions of this article under his or her supervision.¹⁸⁶ After making such inspection, the Superintendent of Building Inspections shall immediately notify the Health Officer, in writing, of his or her approval of the application or of his or her disapproval of the application and the reason therefor.
- C. The Health Officer shall also make such investigation as may be necessary to determine compliance with this article and other applicable codes under his or her supervision. If the project is approved by both the Superintendent of Building Inspections and the Health Officer, the Health Officer shall issue a vending machine permit, forwarding one copy thereof to the Superintendent of Building Inspections, who may then issue a building permit and plumbing permit upon proper application. If the project is not approved, the Health Officer shall notify the applicant of the reason therefor.
- D. Both the Health Officer and the Superintendent of Building Inspections or their representatives shall inspect the installation from time to time during construction to ensure conformance with all applicable codes and ordinances.

§ 333-6. Issuance of license; display.

- A. Upon receipt of an application for a license for the operation of any vending machine, the Health Officer shall make an inspection of the machine and the machine location to determine compliance with the provisions of this article. A numbered vending machine license for each machine shall be issued to the applicant by the health authority after compliance by the applicant with the applicable provisions of the article.
- B. The machine license number, of a size and style approved by the Health Officer, shall be conspicuously displayed on the vending machine for which such license has been issued.
- C. Licensees shall obtain approval of the Health Officer before any conversion of the machine to dispense products other than those for which the license was issued or any change of commissary, service or transport facilities.

¹⁸⁶Editor's Note: See Ch. 121, Contruction Codes, Uniform.

§ 333-7. Fee for permit. [Amended 3-31-1987 by Ord. No. 87-12]

The fee for a permit issued under § 333-5 hereof to install any vending machine shall be \$10 per machine.

§ 333-8. Fee for license.

The fee for a license issued under § 333-6 hereof to operate a dry-cleaning establishment or launderette shall be \$25 per year or part thereof per establishment.

§ 333-9. Fees for vending perishable foods.

- A. The fee for a license issued under § 333-6 hereof to operate any vending machine which vends a readily perishable food shall be as follows:
 - (1) For such vending machines located within buildings or structures and available to the public only when said building or structure is attended: \$10 per year for the first machine on any site and \$2 per year for each additional machine operated by the same operator at the same site.
 - (2) For all such other vending machines: \$15 per year for the first machine at any site and \$5 per year for each additional machine operated by the same operator at the same site.
- B. For the purpose of this section, the term "site" shall include all locations within any single building or on any single real property holding.

§ 333-10. Expiration of license; transfer.

- A. All vending machine licenses issued under § 333-6 shall expire on December 31 of each calendar year.
- B. Any vending machine license may be transferred from one machine to another at the same location, of the same make and design and vending the same produce or products, provided that written notice of such transfer is filed with the Health Officer within 24 hours.

§ 333-11. Compliance with regulations; conflicts.

Nothing contained in this article shall be construed to relieve any person installing or operating a vending machine from the requirements of Chapter 186, Health Standards, the Building Code or the Plumbing Code or the regulations contained therein,¹⁸⁷ including those pertaining to issuance of permits and the payment of fees therefor. It is hereby specifically provided that in the event of conflict between provisions of this article and the provisions of Chapter 186, Health Standards, the Building Code or the Plumbing Code of the Township of Montclair, the provisions of the latter shall control.

§ 333-12. Denial of license or permit.

Persons denied a license or permit shall be notified in writing accordingly by the permit authority or license authority designated in § 333-2 to issue permits or licenses. Such notice shall specify the reason for such action and the remedial action necessary to obtain approval for issuance of a license or permit.

¹⁸⁷Editor's Note: See Ch. 121, Contruction Codes, Uniform.

§ 333-13. Inspections; right of entry.

The Health Officer may inspect any vending machine or vending machine installation, whether vending perishable products or not, or any commissary for any food vending machine, as often as he or she deems necessary, and the owner, operator or licensee or his or her representative shall permit access to any portion of the establishment for the purpose of making an inspection.

§ 333-14. Suspension or revocation of license.

- A. The license of any person to operate a vending machine may be suspended or revoked by the Director of the Department of Parks, Recreation and Public Affairs for a violation of any provision of this article or for the violation of any applicable provision of the health laws of the Township of Montclair¹⁸⁸ or the State of New Jersey.
- B. No vending machine license may be revoked except after due notice and opportunity for a hearing. Pending such hearing, licenses may be suspended by the Director, provided that such suspension is deemed necessary to protect the public health, safety or welfare.

§ 333-15. Hours of operation.

Vending machines located within a room or building shall not be opened and available to the public before 7:00 a.m. nor after 10:00 p.m. unless an attendant is present or unless use is restricted to residents or occupants of the building within which the machines are located.

§ 333-16. Regulation of dry-cleaning establishments.

- A. Construction, operation and maintenance requirements.
 - (1) The public shall only be permitted access to that portion of coin-operated or self-service dry-cleaning machines which is necessary for use of those machines. The remaining portion of each machine shall be separated from the customer area by a partition in which there are grills or similar ventilation devices. This partitioned-off area shall be called the "maintenance area." The access door to the maintenance area shall be self-closing and locked to prevent access by the public.
 - (2) No person other than the license holder or his or her representative shall enter the maintenance area.
 - (3) The maintenance area shall not be interconnected with the areas containing heating devices requiring air for combustion, such as gas dryers, water heaters and comfort heating devices.
 - (4) Heating devices requiring air for combustion shall be installed in such fashion as to obtain air for combustion from the outside atmosphere.
 - (5) Ventilation of establishments shall be effected by the drawing of air from the customer area through grills or other openings in the partition by means of an exhaust fan or fans operating in the maintenance area. Exhaust fans shall be a minimum rated capacity of 400 cubic feet per minute per machine for normal use and 1,000 cubic feet per minute per machine for use in emergencies. The rated capacities of exhaust fans shall appear on this equipment or its nameplate. If air is being constantly exhausted as a built-in feature of the equipment, the rated

188.Editor's Note: See Ch. 186, Health Standards.

capacity of the fan can be reduced by this amount.

- (6) Air shall be replenished at a temperature of not less than 60° F. as quickly as it is exhausted from the customer area.
- (7) Each coin-operated or self-service dry-cleaning machine shall be equipped with an exhaust system that maintains a minimum of 100 feet per minute velocity through the loading door whenever the door is open. The ductwork connections to this system shall be sealed (soldered or taped) and the discharge outlet extended to a minimum height of five feet above the roof line and shall be located so that the effluent may not reenter the premises.
- (8) A concrete dike or metal pan or similar facility shall be installed at the location of each machine to collect and contain spillage. This facility shall be constructed of a material impervious to the solvent used.
- (9) The floor covering in the customer area shall be made of a material resistant to the solvents used in such machines.
- (10) All establishments shall meet the requirements of all established state and local laws, codes and regulations, including but not limited to air pollution, electrical wiring, plumbing, fire prevention, waste disposal, sanitation, solvent storage, food or beverage vending, hours of operation and presence of an attendant.

B. Personnel and customer safety.

- (1) A respirator approved by the United States Bureau of Mines as affording protection against organic solvent vapors shall be provided for and used by maintenance personnel during correction of leakages, cleaning of the system, removal of lint and muck bags and at all times when the odor of solvent is noticeable.
- (2) The customer area shall be equipped with a fire extinguisher approved for use against electrical or oil fires by the National Board of Fire Underwriters.
- (3) A step-by-step readily legible instruction list for operation of machines shall be posted in a conspicuous location near the machine in the customer area. These instructions shall include a list of items not to be dry-cleaned in coin-operated or self-service dry-cleaning machines, such as those made in part or completely of plastic, rubber, leather, paper, fur, angora and urethane.
- (4) Each establishment shall post in a conspicuous location, readily visible from the outside of the premises, the telephone number or numbers to be called in the event of an emergency.
- (5) Each machine shall be provided with an interlock system to prevent the loading door from being opened during the normal cycle or in the event of a power failure. This system may be electrical and/or mechanical.
- (6) No machine shall be permitted to be operated in a coin-operated or self-service dry-cleaning establishment which in normal operation fails to eliminate all vapors from the cleaned items upon completion of the dry-cleaning cycle.
- (7) Immediate action shall be taken to eliminate solvent odor in the customer area. Failure to take such action shall be just cause for closing the establishment. Vapors or odors from establishments shall be exhausted in such manner as not to constitute air pollution, as defined by statute (Chapter 212, P.L. 1954).¹⁸⁹

- (8) No person shall use spotting equipment containing flammable material in a coin-operated or self-service dry-cleaning establishment.
- (9) Each machine shall be inspected each day it is in operation and kept in good repair by maintenance personnel. A record shall be kept in the maintenance area of all inspections and repairs made.
- (10) Solvents shall be kept in closed airtight containers and handled in such manner as to prevent the escape of odors.

§ 333-17. Regulations for food and beverage vending machines.

A. Sanitation requirements.

(1) Vended products.

(a) Food, beverages and ingredients offered for sale through vending machines shall:

- [1] Be manufactured, processed and prepared in commissaries or establishments meeting the requirements of local ordinance and state and federal law or regulation.
- [2] Be wholesome and free from spoilage, contamination and adulteration.
- [3] Be stored or packaged in clean, protective containers and be handled, transported and vended in a sanitary manner; wet storage of packaged products is prohibited.
- [4] If readily perishable, be dispensed to the consumer in the individual original container or wrapper into which it was placed at the commissary or at the manufacturer's or processor's plant, or such products shall be dispensed into single-service containers.

(b) In those vending machines dispensing readily perishable foods, beverages or ingredients in bulk, the bulk supplies of such foods, beverages or ingredients shall be transferred only to a bulk vending machine container and appurtenances which are clean and have been subjected to an approved bactericidal process.

(2) Temperatures.

- (a) Readily perishable foods or ingredients in vending machines shall be maintained at a temperature not higher than 45° F. or a temperature not lower than 150° F., whichever is applicable. Vending machines dispensing readily perishable foods shall be provided with controls which ensure the maintenance of the temperatures as required herein at all times excepting the actual time required to fill or otherwise replenish a machine and for a maximum recovery period of 30 minutes following completion of filling or replenishing operations. In vending machines in which both heating and cooling are accomplished, the heating cycle from 45° F. to 150° F. food temperature or the cooling cycle from 150° F. to 45° F. food temperature shall not exceed one hour. The total accumulated time perishable foods may be between 45° F. and 150° F. shall not exceed two hours.**
- (b) Vending machines dispensing readily perishable foods shall be equipped with controls which render a machine inoperative until serviced by an operator in the event of power**

failure or other condition which permits the food to attain a temperature above 45° F. or below 150° F., whichever is applicable. Vending machines dispensing readily perishable food shall be provided with a thermometer which indicates the air temperature of the food storage compartment within an accuracy of plus or minus 2° F.

- (3) Milk containers. Milk and fluid milk products and milk and milk products added to other foods or beverages offered for sale through vending machines shall be dispensed only in individual original containers or from bulk containers into which such product was placed at the milk plant.
- (4) Parts in contact with milk. All multi-use parts of any bulk milk vending machine which come into direct contact with the milk or milk product shall be effectively cleaned and bactericidally treated at the milk plant, provided that single-service dispensing tubes which receive bactericidal treatment at the fabricating plant and which are individually packaged in such manner as to preclude contamination may be exempted from this provision. The can or other bulk milk container shall be filled only at the milk plant and shall be sealed with two seals in such manner as to make it impossible to withdraw any part of its contents without breaking one seal and impractical to introduce any substance without breaking the other seal. The delivery tube and any milk contact parts of the dispensing device shall be attached at the milk plant and shall be protected by a moistureproof covering or housed in a compartment with a moisture-tight closure which shall not be removed until after the container is placed in the refrigerator compartment of the vending machine.
- (5) Parts in contact with perishables other than milk. With the exception of product contact surfaces of bulk milk vending machines for which separate provisions for cleaning and bactericidal treatment are specified in Subsection A(4) above, all multi-use containers or parts of vending machines which come into direct contact with readily perishable foods, beverages or ingredients shall be removed from the machine daily and shall be thoroughly cleaned and effectively subjected to an approval bactericidal process at the commissary or other approved facility, provided that the requirement for daily cleaning and bactericidal treatments may be waived for those contact surfaces which are maintained at all times at a temperature of not higher than 45° F. or at a temperature of not lower than 150° F., whichever is applicable. Such parts shall, after cleaning and bactericidal treatment, be protected from contamination.
- (6) Parts in contact with nonperishables. All parts of vending machines which come into direct contact with other than readily perishable foods shall be thoroughly cleaned and subjected to bactericidal treatment by methods approved by the health authority. The frequency of such cleaning and bactericidal treatment shall be established by the health authority based upon the type of product being dispensed. A record of such cleaning and bactericidal treatment operations shall be maintained by the operator in each machine and shall be current for at least the past 30 days.
- (7) Single-service articles. All single-service articles which receive food or beverage from vending machines shall be purchased in sanitary cartons or packages which protect the contents from contamination, shall be stored in a clean, dry place until used and shall be handled in a sanitary manner. Such articles shall be stored in the original carton or package in which they were placed at the point of manufacture until introduced into the magazine or dispenser of the vending machine. Single-service articles shall be protected from manual contact, dust, insects, rodents and other contamination.
- (8) Machine location, in general.
 - (a) Machine locations shall be such as to minimize the potential for contamination of the

product, shall be easily cleanable and shall be kept clean. All machines shall be constructed, located, manufactured and operated in conformity with local ordinances as well as state and federal law or regulation.

- (b) Vending machines shall be located in a room, area or space which can be and is maintained in a clean condition and which is protected from overhead leakage from drains and piping. Each vending machine shall be so located and maintained that the space around and under the machine can readily be and is cleaned, and insect and rodent harborage is not permitted.
 - (c) The floor area upon which vending machines are located shall be reasonably smooth, of cleanable construction and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.
- (9) Exterior construction and maintenance of machines.
- (a) The exterior construction of the vending machine shall be such as to facilitate cleaning and to prevent the entrance of insects and rodents, and the exterior of the machine shall be kept clean.
 - (b) A vending machine shall be of sturdy construction, and the exterior shall be so designed, fabricated and finished as to facilitate its being kept clean and to prevent the entrance of insects and rodents.
 - (c) Door and panel access openings to the product and container storage spaces of a machine shall be tight-fitting and, if necessary, gasketed so as to prevent the entrance of dust, moisture, insects, rodents or any other foreign or injurious contamination.
 - (d) All necessary ventilation louvers or openings into vending machines shall be effectively screened against insects and rodents. Such screening material shall not be less than 16 mesh to the inch or equivalent.
 - (e) In all vending machines in which a condenser unit is an integral part of the machine, such unit shall be sealed from the product and container storage spaces.
 - (f) Unless the vending machine is sealed to the floor so as to prevent seepage underneath or can be manually moved with ease, one or more of the following provisions shall be utilized to facilitate cleaning operations: The machine shall be mounted on legs six or more inches in height, or the machine shall be mounted on casters or rollers, or the machine shall be mounted on gliders which permit it to be easily moved.
 - (g) All service connections through an exterior wall of the machine, including water, gas, electrical and refrigeration connections, shall be grommeted or sealed to prevent the entrance of insects and rodents. All connections to such utilities shall be such as to protect against unauthorized or accidental interruption of service.
- (10) Interior construction and maintenance of machines.
- (a) All interior surfaces and component parts of the vending machine shall be so designed and constructed as to permit easy cleaning and shall be kept clean.
 - (b) Nonproduct contact surfaces of the interior of vending machines shall be so designed and

constructed as to permit easy cleaning and to facilitate maintenance operations and shall be kept clean. Inaccessible surfaces or areas shall be minimized.

- (c) All product contact surfaces of vending machines shall be smooth, in good repair and free of breaks, corrosion, open seams, cracked and chipped places and shall be kept clean. The design of such surfaces shall be such as to prevent contact between food and V-type threaded surfaces. All joints and welds in product contact surfaces shall be smooth, and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.
- (d) All product or ingredient contact surfaces of vending machines, including containers, pipes, valves and fittings, shall be constructed of nontoxic, corrosion-resistant and relatively nonabsorbent materials and shall be kept clean. All containers, valves, fittings, chutes and faucets which are in contact with food shall be easily and readily removable and so fabricated as to be easily disassembled, and when disassembled all surfaces shall be visible for inspection and cleaning. In machines of such design that product contact pipes or tubing are not readily removable, in-place cleaning of such pipes and pipe fittings is permissible, provided that they are so arranged that cleaning and bactericidal solutions can be circulated throughout the fixed system, that such solutions will contact all interior surfaces, that the system is self-draining or otherwise completely evacuated and that the cleaning procedures result in thorough cleaning of the equipment.
- (e) The openings into all nonpressurized containers used for the storage of vendable foods and ingredients, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the openings and shall be sloped to provide drainage from the cover surface. Any port opening through the cover shall be flanged upward at least 3/8 inch and shall be provided with a cover which overlaps the flange. Condensation or drip-deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts and other functional parts extending into the container, unless a watertight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of a material which is nontoxic, relatively stable and relatively nonabsorbent and shall have a smooth surface. All gasket-retaining grooves shall be readily cleanable.
- (f) The delivery tube or chute and orifice of all bulk foods and bulk beverage vending machines shall be protected from normal manual contact, dust, insects, rodents and other contamination. The design shall be such as to divert condensation or other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept closed except when the machine is in the process of delivering food or beverage.
- (g) The product storage compartment within vending machines dispensing packaged liquid products shall be so constructed as to be self-draining or shall be provided with a drain outlet which permits complete draining of the compartment. All such drains shall be easily cleanable.
- (h) Opening devices which come into contact with the product or the product contact surface of the containers shall be constructed of smooth, nontoxic, corrosion-resistant and relatively nonabsorbent materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning and shall be kept clean. Parts of multi-use opening

devices which come into contact with the product or product contact surface of containers shall be protected from manual contact, dust, insects, rodents and other contamination, and such parts shall be readily removable for cleaning and shall be kept clean.

(11) Water supply.

- (a) Water used in vending machines shall be from a source approved by the health authority and shall be of a safe and sanitary quality.
- (b) Water used as a product ingredient shall be piped into the vending machine under pressure, and all connections and fittings shall be installed in accordance with local or state plumbing regulations. Containers for the storage of water shall be designed and maintained as a product contact surface.
- (c) If used, water filters or other water-conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.
- (d) All vending machines which dispense carbonated beverages and which are connected to a water supply system shall be equipped with two check valves, a double check valve or an air gap, or a device to vent carbon dioxide to the atmosphere or other device approved by the health authority which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.
- (e) Where check valves are used for the protection of the water supply system, a screen of not less than 100 mesh to the inch shall be installed in the water supply line immediately upstream from the check valve.
- (f) In all vending machines which dispense carbonated beverages and which are connected to a water supply system, the ingredient water contact surfaces from the check valves or other protective device downstream, including the device itself, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

(12) Waste disposal.

- (a) All trash and other waste material shall be removed from machine locations as frequently as may be necessary to prevent nuisances and unsightliness and shall be disposed of in a manner approved by the health authority.
- (b) Self-closing, leakproof, readily cleanable, plainly labeled and designated waste container or containers shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures and other single-service items. Such waste containers shall not be located within the vending machine, provided that an exception shall be made for those machines dispensing only packaged products with crown closures, in which case the closure receptacle may be located within the machine. Suitable racks or cases shall be provided for multi-use containers or bottles.
- (c) Containers shall be provided within all machines dispensing liquid products in bulk for the collection of drip, spillage, overflow or other liquid wastes. An automatic shutoff device shall be provided which will place the vending machine out of operation before such container overflows. Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable and shall be corrosion-

resistant. If liquid wastes from drip, spillage or overflow which originate within the machine are discharged into a sewerage system, the connection to the sewer shall be through an air gap.

- (13) Utensils and equipment. Acceptable facilities shall be provided for the washing, cleaning and bactericidal treatment of all utensils and equipment used in the maintenance or operation of any food vending machine. Cleaned containers and closures shall be protected from contamination until filled and sealed.

B. Delivery of foods, ingredients, equipment and supplies to machine locations.

- (1) Food, beverages or ingredients while in transit to vending machine locations shall be protected from the elements, dirt, dust, insects, rodents and other contamination. Similar protection shall be provided for single-service articles and for the product contact surfaces of equipment, containers and devices in transit to machine locations.
- (2) Readily perishable foods or beverages while in transit to vending machine locations shall be maintained at a temperature of not more than 45° F. or at a temperature of not less than 150° F., whichever is applicable.

C. Personnel, cleanliness and disease controls.

- (1) Employees shall wash their hands immediately prior to engaging in any vending machine servicing operation which may bring them in contact with foods, beverages or ingredients or with product contact surfaces of utensils, containers or equipment. While engaged in such servicing operations, employees shall wear clean outer garments.
- (2) No employee with any disease in a communicable form or who is a carrier of such disease shall work in any commissary or in vending machine operations in any capacity which brings him or her into contact with the production, handling, storage or transportation of foods, beverages, ingredients or equipment used in vending machine operations, and no operator shall employ in any such capacity any such person or any person suspected of having any disease in a communicable form or of being a carrier of such disease. Any employee who has a discharging or infected wound, sore or lesion on hands, arms or any exposed portion of the body shall be excluded from those operations which will bring him or her into contact with foods, beverages, utensils or equipment used in vending machine operations. Any operator among whose employees there occurs a communicable disease or who suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease shall notify the health authority immediately.
- (3) When suspicion arises as to the possibility of transmission of infection from any employee, the health authority is authorized to require any or all of the following measures:
 - (a) The immediate exclusion of the employee from all commissaries and vending machine operations.
 - (b) The immediate closing of the commissaries and operations concerned until, in the opinion of the health authority, no further danger of disease outbreak exists.
 - (c) Medical examination of the employees, with such laboratory examinations as may be indicated, all at the expense of the licensee.

D. Examination and condemnation of unwholesome, contaminated or adulterated food and drink.

- (1) The health authority may take and examine samples of food, drink and other substances as often as he or she deems necessary for the detection of unwholesomeness, adulteration or contamination. At the time samples are taken, a receipt shall be forwarded or delivered to the operator in charge of the vending machine. The operator shall make provisions for the health authority, either in company with an employee or otherwise, to have access to the interior of all vending machines operated by him or her.
- (2) The health authority may forbid the sale or use of any food or drink from a vending machine which is or is suspected of being unwholesome, adulterated or misbranded.
- (3) The health authority may forbid the use of a vending machine or any equipment or utensils thereof which have not been properly treated by an approved bactericidal process or which in his or her opinion may lead to the adulteration or contamination of any food or drink with which it may contact.

E. Emergency termination of operation of vending or commissary.

- (1) Whenever the health authority shall find grossly unsanitary or other conditions present in the operation of a vending machine or commissary which constitute a substantial and immediate hazard to the public health, the health authority shall forthwith issue and deliver to the operator a written order setting forth the existence of such condition or conditions and specifying in detail the corrective action which must be taken and, if required, directing the discontinuance of the operation. Such order shall become effective immediately and shall apply only to the particular vending machine, commissary or product involved.
- (2) Any operator to whom such an order is issued by the health authority shall comply with said order forthwith, and if the particular condition or conditions are not corrected and the operation has not previously been ordered discontinued, the health authority may issue a supplemental order directing immediate discontinuance of the operation in question. Any operator may appeal from any such order or orders of the health authority to the Director of the Department of Parks, Recreation and Cultural Affairs, who shall forthwith hold a hearing on the order or orders appealed from and who, after hearing, may affirm, reverse or modify any such order or orders of the health authority.

§ 333-18. Variances.

The Township Council, upon recommendation of the Health Officer or Superintendent of Building Inspections, shall have power to authorize upon application, in specific cases, such variances from the terms of this article as will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the provisions of this article will result in unnecessary hardship and so that the spirit of the article shall be observed and substantial justice done.

§ 333-19. 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 article 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.

ARTICLE II

Newsracks

[Adopted by the Council of the Township of Montclair 5-3-1988 by Ord. No. 88-20 (Art. XII of Ch. 88 of the 1979 Code)]

§ 333-20. Location and placement.

- A. Any newspaper vending machine, hereinafter referred to as a "newsrack," which rests in whole or in part upon, or on any portion of a public right-of-way, or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the provisions of this article.
- B. Regulations.
- (1) No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part upon, along or over any portion of the roadway of any public street.
 - (2) No newsrack shall be permitted to rest upon, in or over any public sidewalk, when such installation, use or maintenance:
 - (a) Endangers the safety of persons or property;
 - (b) Unreasonably interferes with or impedes the flow of pedestrians or vehicular traffic, including any legally parked or stopped vehicle;
 - (c) Unreasonably interferes with the ingress or egress from any residence or place of business; or
 - (d) Unreasonably interferes with the use of traffic signs or signals, hydrants or mailboxes permitted at or near said location.
 - (3) Newsracks shall be freestanding and stable so as to prevent their being blown down or around the public right-of-way. **[Amended 10-1-1991 by Ord. No. 91-45]**
 - (4) Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than four feet along a curb. There must be at least 50 feet between any newsrack or permissible group of newsracks and any other newsrack or group of permissible newsracks. **[Amended 10-1-1991 by Ord. No. 91-45]**
 - (5) No newsrack shall be placed, installed, used or maintained:
 - (a) Within three feet of any marked crosswalk.
 - (b) Within 12 feet of a curb return of any unmarked crosswalk.
 - (c) Within five feet of any fire hydrant, fire call box, police call box or other emergency facility.
 - (d) Within five feet of any driveway.
 - (e) Within three feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.
 - (f) At any location that would unreasonably restrict the passageway of pedestrians.

C. Notification of placement. **[Added 6-28-1988 by Ord. No. 88-46]**

- (1) Owners of newsracks shall be responsible for giving written notification of the location of the placement of a newsrack to the Township Manager who shall be responsible for the enforcement of this article. **[Amended 10-1-1991 by Ord. No. 91-45]**
- (2) Owners shall also be responsible to certify compliance with this article on an annual basis, by September 1 of each year, as well as to provide the Township with the location of each machine.

§ 333-21. Maintenance and installation.

Any newsrack which in whole or in part rests upon or over any public sidewalk or parkway shall comply with the following standards:

- A. No newsrack shall exceed 60 inches in height, 24 inches in width or 20 inches in thickness.
- B. No newsrack shall be used for advertising signs or publicity purposes other than dealing with the display, sale or purchase of newspaper sold therein. No newsrack shall contain publicity or advertising material unless associated with a newspaper. **[Amended 10-1-1991 by Ord. No. 91-45]**
- C. Each newsrack shall be equipped with a coin return mechanism to permit a person using the machine to secure an immediate refund in the event that he or she is unable to receive the publication paid for. The coin return mechanisms shall be maintained in good working order.
- D. Each newsrack shall have affixed to it in a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction or to secure a refund in the event of a malfunction of the coin return mechanism or to give the notices provided for in this article.
- E. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:
 - (1) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.
 - (2) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon.
 - (3) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discolorations.
 - (4) The paper or cardboard parts of inserts thereof, if any, are reasonably free of tears, peeling or fading.
 - (5) The structural parts thereof are not broken or unduly misshapen.

§ 333-22. Violations and penalties. [Added 10-1-1991 by Ord. No. 91-45; 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this article 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.

VENDORS, MOBILE

Chapter 337

VENDORS, MOBILE

[HISTORY: Adopted by the Township Council of the Township of Montclair as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 238.

Vending machines — See Ch. 333.

Garbage, rubbish and refuse — See Ch. 292, Art. IV.

ARTICLE I

Licensing and Other Regulations**[Adopted 4-30-1985 by Ord. No. 85-12 (Art. X of Ch. 88 of the 1979 Code)]****§ 337-1. Definitions. [Amended 7-23-1985 by Ord. No. 85-27]**

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

MOBILE VENDOR — A person who goes from place to place or from house to house by traveling on public streets by vehicle or pushcart and carries with him or her, whether with or without other products, ice cream products, frozen dessert products, water ices, beverages, frozen confectionery products, food and foodstuffs which, prior to service, require only limited preparation or are prepackaged, all for the purpose of selling or attempting to sell them to customers from such vehicle or pushcart.

§ 337-2. License required.

It shall be unlawful for any person, partnership or corporation to directly or indirectly sell or offer to sell ice cream products, frozen dessert products, water ices, beverages, frozen confectionery products, food and foodstuffs, which, prior to service, require only limited preparation or are prepackaged, through the parking, standing or location of any truck, wagon, cart or other mobile unit upon public lands, streets or highways within the township or in close proximity thereto without first obtaining a license to do so, said license to be obtained from the Municipal Clerk pursuant to § 337-3 hereof.

§ 337-3. License fee. [Amended 3-31-1987 by Ord. No. 87-12; 8-6-1991 by Ord. No. 91-38; 6-13-2006 by Ord. No. 06-26; 7-7-2009 by Ord. No. O-032-09]

All licenses required under the provisions of this article shall be applied for as set forth in §§ 238-3 through 238-15 of Chapter 238, Peddling and Soliciting, except that the fee for the same shall be \$125 per vehicle licensed, and the one-day license fee shall be \$25.

§ 337-4. Regulations and restrictions.

- A. It shall be unlawful for anyone engaged in the business of selling any of the items set forth in § 337-1 of this article from vehicles to misrepresent the character or quality of the merchandise offered for sale or to importune or otherwise annoy any person or persons for the purpose of effecting a sale.
- B. All products so sold or offered for sale from such vehicles shall comply with all the laws and local ordinances relating to food and food products.
- C. It shall be unlawful for a mobile vendor to: **[Amended 7-23-1985 by Ord. No. 85-27; 11-1-2011 by Ord. No. O-11-066]**
 - (1) Sell or offer to sell his or her products in streets where the permitted speed limit is 30 miles per hour or more.
 - (2) Sell or offer to sell his or her products to a person standing in the roadway, nor shall he or she allow any unauthorized person to ride in or on the vehicle.
 - (3) Occupy a location in a residential zone [R-O, R-O(a), R-1, R-2, R-3 or R-4], for a period longer than 15 minutes. A street location which immediately abuts a residential zone on either side shall be considered a residential zone.

- (4) Occupy a temporary location in any other zone for a period longer than 1/2 hour.
 - (5) Occupy any location situated within 200 feet of the property of any elementary, middle or high school, whether public or private.
 - (6) Occupy the same temporary location twice within one twenty-four-hour period, regardless of the character of the zone chosen for the location of the vehicle.
 - (7) Relocate his or her vehicle in compliance with Subsections A, B and C above within 500 feet of the location just immediately vacated by him or her.
 - (8) Vacate a temporary location without first removing all waste and debris which has been caused by his or her occupancy or his or her patrons.
 - (9) A mobile vendor subject to the provisions of N.J.S.A. 39:4-128.7 shall, to the extent said statute is inconsistent with this article, comply with the statute. Otherwise, this article shall apply. **[Added 7-21-2015 by Ord. No. O-15-018]**
- D. Notwithstanding anything herein to the contrary, a mobile vendor, other than a frozen dessert truck as defined in N.J.S.A. 39:4-128.3, may occupy the following locations strictly in compliance with the conditions imposed by this article and where applicable, the special conditions imposed by this subsection and set forth below: **[Amended 7-23-1985 by Ord. No. 85-27; 4-29-2014 by Ord. No. O-14-014; 7-21-2015 by Ord. No. O-15-018]**
- (1) Locations.
 - (a) Chestnut Street:
 - [1] North side from a point 41 feet west of North Fullerton Avenue to a point 30 feet west therefrom.
 - [2] North side from a point 71 feet west of North Fullerton Avenue to a point 30 feet west therefrom.
 - (b) North Fullerton Avenue:
 - [1] West side from a point 50 feet north of Chestnut Street to a point 30 feet north therefrom.
 - [2] West side from a point 80 feet north of Chestnut Street to a point 30 feet north therefrom.
 - (2) Parking is limited to the hours of 9:00 a.m. to 2:00 p.m. every day.
 - (3) Food and drinks may only be sold between the hours of 10:00 a.m. to 1:00 p.m.
 - (4) Each vendor must place a trash can of adequate size and a recycle can in close proximity to the vendor's location. Vendors are required to remove trash and to properly dispose of trash and recyclable containers and materials. No trash or recyclables shall be disposed of in receptacles owned by the Township or nonprofit corporations or associations that place trash or recycling receptacles on the street for use by the public.
 - (5) Permits issued shall be issued for the above locations in accordance with written procedures established by the Manager and filed with the Township Clerk.

- (6) Vendors for the permit parking spaces authorized by this subsection shall be selected by a scaled bid auction held annually for a one-year period commencing September 1 of the year in which the auction is held. Notice of the auction shall be published and posted in the same manner as an ordinance at least 14 days before the date of the auction.
 - (7) The fee for each permit shall be the highest amount bid, with a minimum annual fee to be determined on an annual basis. **[Amended 3-19-2019 by Ord. No. O-19-008]**
 - (8) The Manager is authorized to promulgate additional regulations concerning proper behavior of the vendors.
- E. Nothing herein shall be construed to: **[Amended 7-23-1985 by Ord. No. 85-27; 11-1-2011 by Ord. No. O-11-066]**
- (1) Permit parking in any location in violation of the general parking ordinances of the Township of Montclair;¹⁹⁰ or
 - (2) Limit the discretion of a police officer to require a mobile vendor to move from an otherwise permitted location in the interest of public safety or the adequate movement of vehicular or pedestrian traffic.

§ 337-5. Violations and penalties. [Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17; 4-29-2014 by Ord. No. O-14-014]

- A. Any person who violates any provision of this article 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.
- B. The permit authorized by this article may be revoked as follows:
- (1) The Clerk shall revoke the permit of any person who has been convicted three times for violating Chapter 337 within a two-year period commencing with the first conviction. A person whose permit is revoked may appeal to the Manager no more than 15 days after the date of revocation. The appeal must be in writing and shall set forth reasons why the revocation should be rescinded, supported by pertinent facts.
 - (2) The Clerk shall revoke the permit of any person who has been convicted of a crime of the fourth degree or worse.

190.Editor's Note: See Ch. 327, Vehicles and Traffic.

ARTICLE II

**Food Truck, Trailer and Cart Fire Safety
[Adopted 1-19-2016 by Ord. No. O-15-040]****§ 337-6. Definitions.**

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

FOOD CART — A cart or other movable device used on the public sidewalks or in public places, in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution, and which is not licensed as a food truck or food trailer.

FOOD TRAILER — A nonmotorized vehicle designed to be towed by a motorized vehicle that is registered and is able to be operated on the public streets of the State of New Jersey, in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

FOOD TRUCK — A motorized vehicle that is registered and is able to be operated on the public streets of the State of New Jersey, in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

FOOD VEHICLE — Collectively, a food truck, food trailer and a food cart.

FOOD VENDOR — The owner or operator of a food truck, food trailer or food cart or the owner's agent; hereinafter referred to as "vendor."

§ 337-7. Inspection required.

- A. No food truck or trailer shall operate within the borders of the Township of Montclair without first having been inspected and approved by the Montclair Fire Department Fire Prevention Bureau.
- B. No food cart that is using propane shall operate within the borders of the Township of Montclair without first having been inspected and approved by the Montclair Fire Department Fire Prevention Bureau.

§ 337-8. Annual inspection; certificate of approval.

- A. Food vehicles shall be inspected annually. Compliant food vehicles shall receive a certificate of approval valid until December 31 of the year in which the certificate is received. Certificates of approval shall be displayed prominently in or on the food vehicle as directed by printed instructions on the certificate.
- B. Vendors shall apply for inspections and certificates of approval at the Montclair Fire Department Fire Prevention Bureau located at 1 Pine Street, second floor.
- C. The inspection fee of \$42 shall be paid at the time of application. For continuous operation within the Township(s), a yearly permit from January through December is required. For renewal, the vendor must file an application and pay the required fee prior to each new year, and an appointment for inspection will be scheduled no later than March 1.
- D. The Fire Official shall prepare a checklist for the inspection specifically detailing the requirements needed and standards which must be complied with for approval. The checklist shall be publicly available. Nothing in this subsection shall be construed as limiting the authority of the Fire Official to supplement the requirements of the checklist in a particular case in the interest of public safety.

- E. Vendors failing the inspection may be reinspected at any time. No additional fee will be charged for the first reinspection if within 30 days of the first inspection. The full inspection fee is required for reinspections after that date and any additional reinspections.

§ 337-9. Special events.

A vendor operating at a special event, party, fair, festival or movie production where there will be a food vehicle is required to comply with this article. The application must be filed no later than two weeks before the event. Applications made less than two weeks before the event may be accepted up to the day of the event at the discretion of the Fire Official. A late service fee may be charged not to exceed double the standard fee. In no case may a food vehicle operate without approval by the Fire Official.

§ 337-10. Violations and penalties.

Any person who violates any provision of this article 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 this article 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.

MONTCLAIR CODE

Chapter 341

WATER

[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. 219 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Air-conditioning and refrigeration — See Ch. 67.

Sewers — See Ch. 269.

Flood damage prevention — See Ch. 161.

Stormwater control — See Ch. 295.

ARTICLE I
Facilities; Use; Rates and Charges

§ 341-1. Payment for installation and use; lien.

The owner of any building or premises in the Township shall be liable for the payment of the rate, charge, price or rent as fixed in this article for any water service, installations, connections, appliances or parts and renewals thereof furnished or made by the Township or any department thereof in or upon such building or premises, and the interest and penalties charged. Such rate, charge, price or rent so taxed and the other costs, expenses, interest and penalties aforesaid remaining unpaid for six months shall be a lien upon said building and premises until the same shall be paid and satisfied.

§ 341-2. Charges for installations, abandonments and fire lines. [Amended 3-3-1981 by Ord. No. 81-6; 11-9-1982 by Ord. No. 82-44; 12-28-1993 by Ord. No. 93-51; 3-18-2003 by Ord. No. 03-18; 12-9-2014 by Ord. No. O-14-049; 6-3-2025 by Ord. No. O-25-19]

The following charges shall be made for every installation of water service, relocation of existing service, abandonment of existing service and setting a new meter:

A. Charges for services.

Nominal Size (inches)	New Service or Relocating Existing Service Main to Curb	Abandoning Existing Service	Additional Cost per Foot for New Services in Excess of 75 Feet
5/8		\$300	
3/4	\$968.29	\$300	\$10.25
1	\$1,204.44	\$300	\$12.75
1 1/2	\$2,243.50	\$300	\$20.50
2	\$2,621.09	\$300	\$30
Over 2	At cost	At cost	At cost

B. Standby charges for fire-protection purposes shall be as follows:

(1) From January 1, 2015, to December 31, 2015:

Size (inches)	Charge per Quarter
1 1/2	\$27.30
2	\$34.48
3	\$81.90
4	\$120.90
6	\$149.24
8	\$257.40

(2) From January 1, 2016, to December 31, 2016:

Size (inches)	Charge per Quarter
1 1/2	\$31.40
2	\$39.65
3	\$94.19
4	\$139.04
6	\$171.63
8	\$296.01

(3) From January 1, 2017, to December 31, 2017:

Size (inches)	Charge per Quarter
1 1/2	\$32.96
2	\$41.63
3	\$98.89
4	\$145.99
6	\$180.21
8	\$310.81

§ 341-3. Installations outside Township.

In the case of all installations of water service to buildings and premises outside the corporate limits of the Township, the owner of such buildings and premises shall pay in advance such of the charges set forth in § 341-2 hereof as may be appropriate, shall deposit with the Township Water Bureau the sum of \$10 as a guaranty of the payment of any charges for service and shall be required to pay any additional expenses incurred by the Township arising from charges made by the municipality or county in which said building or premises is situated. The owner shall also secure at his or her own cost and expense any and all municipal and county consents and approvals that may be required for the installation of such water service.

§ 341-4. Charges for lost, stolen or damaged equipment.

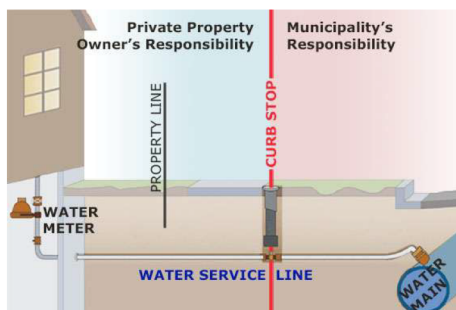
- A. Any meters or remote registers and related equipment lost, stolen or damaged shall be repaired or replaced by the Water Bureau at the cost of the consumer.
- B. Meters that have been damaged by frost will be replaced only on receipt of a deposit of \$15 to cover cost of repairs. After repairs, the balance, if any, will be returned.

§ 341-5. Permits required; inspection and approval. [Amended 8-12-2025 by Ord. No. O-25-27; 7-14-2026 by Ord. No. O-26-23]

- A. No water service shall be installed from the curb to the building without a permit therefor having first been obtained from the Township Water Bureau. Such service, including the meter and valves at the meter, shall be inspected and approved by a representative of the Township Water Bureau before said

water service may be put in use and operation. The charge for such permit, inspection and approval shall be \$5, payable in advance.

- B. No temporary repairs may be made on the existing water service or at an existing meter without prior approval and inspection by a representative of the Township Water Bureau. The charge for such approval and inspection shall be \$5. All leaking services, except copper and cast and/or ductile iron, shall be re-layed using copper. Repairs will be allowed on copper, cast-iron and ductile iron services only.
- C. No service line shall be smaller than 3/4 inch, except that the Water Bureau may, if it deems necessary, require a larger size than 3/4 inch. All service lines up to and including two inches shall be of Type K copper tubing with a minimum number of joints. All buried connections shall be either flared or compression type, and in no instance shall sweat joints be allowed underground. All services larger than two inches shall be of cement-lined cast-iron or ductile iron pipe, installed in accordance with the manufacturer's specifications.
- D. A gate valve shall be provided on each side of the meter. The valves shall be the same size as the service. Gate valves 3/4 inch through two inches, inclusive, shall be brass and/or bronze, excluding the hand wheel. Gate valves four inches and larger shall be flanged body, double disk, rising-stem type with cast-iron bodies and bronze disks, seats, stem and gearing. All valves shall be Class 150 minimum.
- E. Single meter to multiple meters.
 - (1) Any structure converting from a single meter installation to a multiple meter setting must apply for and pay for a new 1 1/2 inch tap as set forth in § 341-2 and run a new 1 1/2 inch line from the curb stop into the structure. All meters installed must be a minimum of one inch.
 - (2) Any single-family dwelling that is to be split into a multifamily dwelling must abandon the original water service and apply for and pay for a new inch 1 1/2 tap as set forth in § 341-2 and to also pay the fees for installing a new one-inch meter off of that new line for each individual dwelling unit along with individual isolation valves for each new meter.
 - (3) Any structure that does not comply with the above shall be subject to the same penalties as a delinquent water account, pursuant to § 341-10.
- F. The consumer is responsible from the shutoff within the public right of way into the structure, except for the meter.



- G. The valves and piping adjacent to the meter shall be kept in good order by the consumer. The Bureau may require the consumer to repair and/or replace valves and/or piping so that meters can be changed.

Such notice shall be in writing and shall provide a period of 90 days for compliance.

§ 341-6. Relocation of service.

When an existing water service is relocated, it shall be disconnected at the water main. If more than one street opening is required, charges shall be made for both the relocation and abandonment in accordance with the schedule of charges in § 341-2. Otherwise the charge for relocation shall be deemed to include the charge for abandonment.

§ 341-7. Change in size of water service.

Whenever a change is made in the size of the existing service, a charge shall be made as in the case of the installation of a new service in accordance with the schedule of charges set forth in § 341-2.

§ 341-8. Temporary service during building construction. [Amended 12-28-1993 by Ord. No. 93-51; 2-24-2026 by Ord. No. O-26-01]

During construction or rehabilitation of a property where city water is desired there must be an account set up through the Tax, Water and Sewer office. If there is an existing service, a meter must be installed by the Township with a backflow preventer installed by licensed plumber. In the case of a service line needed on the property, the owner shall pay in advance the charges set forth in § 341-2 with a meter being installed by the Township and a backflow preventer installed by a licensed plumber. The Water Bureau must inspect the installation of said backflow preventer before the water can be turned on at the curb. No fire hydrant shall be used for construction water on any private construction sites. A fee of \$50 will be charged for physical cross connections (new installations) in accordance with N.J.A.C. 7:10-10.6.

§ 341-9. Water rates. [Added 12-18-2007 by Ord. No. 07-53¹⁹¹; amended 1-6-2009 by Ord. No. 08-55¹⁹²; 12-8-2009 by Ord. No. O-068-09; 12-28-2010 by Ord. No. O-10-075¹⁹³; 11-17-2014 by Ord. No. O-14-043; 11-12-2025 by Ord. No. O-25-52]

A. Effective January 1, 2026, the rates for water purchased from the Township by consumers shall be as follows:

(1) Service line of one inch.

(a) For consumers whose water service line is one inch or smaller and includes 1,000 cubic feet, the quarterly minimum charge will be as follows:

[1] Calendar year 2026: \$35.02.

[2] Calendar year 2027: \$36.07.

[3] Calendar year 2028: \$37.15.

[4] Calendar year 2029: \$38.26.

[5] Calendar year 2030: \$39.40.

191.Editor's Note: This ordinance also repealed former § 341-9, Water rates, as amended, and former § 341-9.1, Water rates effective January 1, 2007, added 4-11-2006 by Ord. No. 06-13, which immediately followed this § 341-9.

192.Editor's Note: This ordinance provided an effective date of 1-1-2009.

193.Editor's Note: This ordinance provided an effective date of 1-1-2011.

[6] Calendar year 2031: \$40.58.

[7] Calendar year 2032: \$41.79.

[8] Calendar year 2033: \$43.04.

[9] Calendar year 2034: \$44.33.

[10] Calendar year 2035: \$45.66.

- (b) Each additional unit of 100 cubic feet of water in excess of 1,00 cubic feet up to 3,300 cubic feet will be charged as follows:

	Nonpeak	Peak
2026	\$3.50	\$4.08
2027	\$3.60	\$4.20
2028	\$3.70	\$4.32
2029	\$3.81	\$4.57
2030	\$3.92	\$4.70
2031	\$4.03	\$4.84
2032	\$4.15	\$5.02
2033	\$4.27	\$5.17
2034	\$4.39	\$5.32
2035	\$4.52	\$5.47

- (c) Each addition unit of 100 cubic feet in excess of 3,300 cubic feet will be charged as follows:

	Nonpeak	Peak
2026	\$3.85	\$4.62
2027	\$3.96	\$4.75
2028	\$4.07	\$4.89
2029	\$4.19	\$5.03
2030	\$4.31	\$5.18
2031	\$4.43	\$5.33
2032	\$4.56	\$5.49
2033	\$4.69	\$5.64
2034	\$4.83	\$5.80
2035	\$4.97	\$5.97

- (2) Service line greater than one inch.

- (a) For consumers whose line is larger than one inch, each unit of 100 cubic feet will be charged as follows:

	Nonpeak	Peak
2026	\$3.85	\$4.62
2027	\$3.96	\$4.75
2028	\$4.07	\$4.89
2029	\$4.19	\$5.03
2030	\$4.31	\$5.18
2031	\$4.43	\$5.33
2032	\$4.56	\$5.49
2033	\$4.69	\$5.64
2034	\$4.83	\$5.80
2035	\$4.97	\$5.97

- (b) Each additional unit of 100 cubic in a calendar month in excess of an average of 13,369 cubic feet per day for that month will be charged as follows:

	Nonpeak	Peak
2026	\$4.15	\$5.00
2027	\$4.27	\$5.15
2028	\$4.39	\$5.30
2029	\$4.52	\$5.45
2030	\$4.65	\$5.61
2031	\$4.78	\$5.77
2032	\$4.92	\$5.94
2033	\$5.06	\$6.11
2034	\$5.21	\$6.29
2035	\$5.36	\$6.47

§ 341-9.1. Infrastructure charge. [Added 5-4-2021 by Ord. No. O-21-10]

Effective July 1, 2021, all consumers receiving water service from the Township shall pay, in addition to any other applicable charges, an infrastructure charge as follows:

Meter size (inches)	Infrastructure charge per quarter
5/8 x 3/4	\$25
3/4	\$37.50
1	\$62.25
1.5	\$124.50
2	\$199.20
3	\$434.26
4	\$868.51
6	\$1,737.02
8	\$2,483.94
10	\$4,967

§ 341-10. Delinquent water accounts.

- A. If any account for water purchased remains unpaid for the prior calendar year, then at any time after April 30 of the following year, the water service may be forthwith discontinued; provided, however, that 30 days prior to the discontinuance of such service a written notice shall be sent to the user at his or her address. In cases where the user is a tenant, a duplicate of such notice shall be sent to the owner of the property at his or her address as shown on the current records in the office of the Collector of Taxes and Water Rents. Such notice shall notify such user and/or owner of the delinquency and of the proposed discontinuance of the water service in the event the outstanding account is not paid within 30 days after delivery of said notice and that the delinquent amount shall become a lien on the property as provided by law. **[Amended 12-27-2005 by Ord. No. 05-70]**
- B. Whenever it shall be necessary to discontinue (shut off) water service as herein provided, a fee of \$20 shall be charged to the user prior to the turning back on of the water service. Water service will only be turned on after the fee of \$20 has been paid and only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. There will be no shutoffs performed Friday through Sunday.
- C. The Collector of Taxes and Water Rents shall administer the provisions of this section.

§ 341-10.1. Water connection fees. [Added 12-29-2009 by Ord. No. O-073-09]

- A. Fee established. A connection fee shall be payable to the Township of Montclair for all buildings, structures or premises which are hereafter connected to the Township water supply and distribution system. The purpose of the connection fee is to pay the cost of the physical connection and a fair contribution toward the capital cost of the Township's water system.
- B. Connection fee schedule. Commencing January 1, 2015: **[Amended 12-9-2014 by Ord. No. O-14-050]**
 - (1) The amount of the connection fee for any building, structure or premises shall be determined in accordance with the following schedule:

Classification Connection	Fee
Existing single-family dwellings served by an individual private well or by an individual septic system	\$2,000
New single-family dwellings	\$2,000
New single-family dwellings, developer-installed connections	\$1,467
Multifamily dwellings, including apartments, townhouses, condominiums, cluster homes and duplexes	\$1,267 (per dwelling unit)
Low-income dwelling units and facilities providing permanent housing for elderly or handicapped persons and operated by charitable, nonprofit organizations which are tax exempt under § 501(c)(3) of the Internal Revenue Code	\$667 (per dwelling unit)
Nursing homes and dormitories	\$667 (per bed)
Hospitals	\$1,667 (per bed)
Motels and hotels	\$667 (per room)

- (2) Connection fees for all other business, industrial and public buildings are based on meter size as follows:

Meter Size (inches)	Connection Fee
5/8	\$1,900
1	\$7,694
1 1/2	\$15,350
2	\$30,469
3	\$60,950
4	\$106,181
6	\$243,281
8	\$570,206
10	\$914,281
Special events	The connection fee for a permanent connection to be used at special events for no more than 12 days per calendar year shall be 10% of the connection fee listed in this schedule.

- C. Payment. All connection fees shall be due and payable to the Township at such times as a permit is issued for connection to the Township's water supply and distribution system, except that any

premises or building for which a water supply permit has been issued prior to the effective date of this article shall be exempt from payment of the connection fees set forth in this section.

ARTICLE II

Laying or Repairing Water Service Pipes**§ 341-11. Permit required. [Amended 5-23-2000 by Ord. No. 00-19]**

No person shall lay or repair water service pipes within the Township unless he or she complies with the regulations hereinafter set forth in this article and obtains a permit therefor from the Township Water Bureau. The cost of the permit shall be \$30.

§ 341-12. Conditions precedent to issuance of permit.

No permit shall be issued to any person for the laying or repairing of water service pipes unless the applicant:

- A. Is a master plumber registered in the Building Department as such.
- B. Has posted security with the Water Bureau as hereinafter specified.
- C. Has been issued a permit by the Bureau of Engineering for opening trenches and presents such permit to the Water Bureau.

§ 341-13. Posting of security. [Amended 12-28-1993 by Ord. No. 93-51]

Each registered master plumber shall deposit with the Water Bureau the sum of \$20 as security for the faithful performance of his or her work in laying and repairing water service pipes within the Township and for due compliance with all rules and regulations promulgated by said Bureau. The security thus filed with the Bureau shall, upon discontinuance of business by any licensed plumber and upon due application in writing, be refunded by the Bureau, provided that the applicant for such refund has not in the meantime violated any of the rules and regulations as aforesaid.

ARTICLE III
Drought and Water Shortages

§ 341-14. Legislative declaration.

By reason of the long-continued unprecedented droughts that occur from time to time in this area of the state which result in a dangerous lowering of the Township's potable water supply and because experience has demonstrated that appeals for voluntary aid in water conservation are not as effective as necessary, the Township Council finds that the adoption of this article is necessary for the public health, safety and welfare and is in the public interest.

§ 341-15. Authority to proclaim emergency and prescribe regulations. [Amended 6-15-2004 by Ord. No. 04-34]

Whenever the average amount of water in the reservoirs supplying the Township in any one month falls 20% below the average amount of water in storage for the corresponding months of the five-year period immediately preceding and the Township Engineer certifies that an emergency exists in such water supply, the Director of the Department of Community Services may, for the protection of the health, safety and general welfare of the citizens and residents of the Township, proclaim the existence of a water emergency and prescribe regulations to:

- A. Prohibit the use of water from the municipal supply for any purpose not necessary to the health, safety and welfare of the public.
- B. Allocate and prorate the available water supplies.
- C. Reduce consumption by users.
- D. Prevent waste for the period of duration of such emergency.

§ 341-16. Compliance with proclamation.

The proclamation of the emergency shall be conclusive of the fact of the existence of such emergency and shall be binding upon all persons and users upon the filing of the same in the office of the Municipal Clerk and the publication thereof at least once in the Montclair Times, a newspaper published and circulating in the Township. The regulations set forth in the proclamation and any subsequent regulations made and published as aforesaid, upon filing thereof in the office of the Municipal Clerk, shall be deemed to have the force and effect of regulations adopted under the authority of this article the same as if specifically incorporated and set forth herein. Every owner, lessee, tenant and occupant of any building or premises connected with the municipal water supply, and every user thereof, under any contract, ordinance or statute, shall, upon the proclamation and promulgation of the regulations as aforesaid, become bound thereby and by the provisions of this article and shall conform thereto and comply therewith in the use of water and the maintenance of the water service connections and equipment for the purposes thereof.

§ 341-17. Notice to other municipalities.

Upon the making of such proclamation of emergency, the Municipal Clerk shall forthwith give written notice of said proclamation to the Municipal Clerks of all municipalities dependent in whole or part upon this Township for their water supply, with the request that under the terms of the respective water service contracts existing between said municipalities and this Township, restrictive measures at least equal to those to be enforced in this Township be taken in the other municipalities serviced by this Township, to the end that all reasonable means of water conservation be taken for the protection of all of the people served

by said system.

§ 341-18. Duty to prevent waste of water.

- A. Every owner of buildings and premises connected with the municipal water supply shall:
 - (1) Maintain or cause to be maintained the water service pipes, fixtures and connections in good order and repair, in order to ensure that there shall be no waste of water; and
 - (2) Forthwith make or cause to be made necessary repairs to prevent the waste of water.
- B. Every lessee, tenant and occupant of any building or premises connected with the municipal water supply shall:
 - (1) Immediately notify the owner or his or her agent of any defective water service pipes, fixtures or connections whereby water is being wasted: and
 - (2) Immediately notify the Water Bureau or Police Department of any waste occurring by reason of defective water service pipes, fixtures or connections.
- C. Every owner and user of water shall, during the period of a water emergency, be chargeable with notice, of any waste of water due to defective water service pipes, fixtures or connections and of the regulations promulgated under the proclamation.

§ 341-19. Inspection and access.

- A. The consumer has the right to refuse access to any employee who, upon request, does not produce proper identification.
- B. The Bureau shall have the right of access to the consumer's premises and all property furnished by it for the purpose of reading or changing meters and/or inspecting the water system between the hours of 8:00 a.m. and 6:00 p.m., prevailing time, Monday through Saturday inclusive. Emergencies shall entitle the Bureau to access as needed.
- C. If access is not provided, water service shall be discontinued; provided, however, that 10 days prior to the discontinuance of any such service, a written notice shall be sent to the user at his or her address. In cases where the user is a tenant, a duplicate of such notice shall be sent to the owner of the property at his or her address as shown on the records of the office of the Collector of Taxes and Water Rents. Such notice shall notify said user or owner of the nonaccess conditions and of the proposed discontinuance of the water service at the end of the ten-day period.

§ 341-20. Repairs by Township; shutting off water.

Whenever an owner shall fail or refuse to make repairs so as to prevent the waste of water, then the Township shall have the power to make such repairs and to charge the cost thereof to the owner in the same manner as other water charges are made, as by the statutes and ordinances provided, or to shut off the water from such premises until such repairs are made by the owner.

ARTICLE IV
Meters and Remote Registers

§ 341-21. Application for water before occupancy.

Each new consumer, whether owner or tenant, shall sign an application for water before beginning occupancy.

§ 341-22. All services to be metered; exception. [Amended 7-14-2026 by Ord. No. O-26-15]

All services shall be metered except fire lines, which shall be equipped with a combination check valve and bypass meter to be purchased from the Montclair Water Bureau known as a detector "check valve," unless the fire line is less than three inches in diameter. When the fire line is less than three inches in diameter, then a separate meter shall be required before the check valve. Minimum fire line size required by the Township is 1 1/2 inches. All fire lines, residential, commercial or industrial, shall require a separate tap apart from the domestic tap line which runs from the water main into the structure.

§ 341-23. Noninstitutional meters and/or detector-check valves. [Amended 11-9-1982 by Ord. No. 82-44]

All noninstitutional meters and/or detector-check valve assemblies installed subsequent to the effective date of this article shall be provided with outside registers. The term "noninstitutional" shall include residences, rest homes, nursing homes, apartment houses and multifamily houses.

§ 341-24. Meters and remote registers.

- A. Meters and/or remote registers and related equipment are not to be disturbed without prior approval by the Water Bureau except in emergencies.
- B. The remote register shall be located on the outside of the building within three feet of the electric meter or on the front of the building. In no case shall the remote register be enclosed in a fenced area. If the register is enclosed by a fence, the consumer will be required to have the register relocated at his or her expense by the Water Bureau.
- C. All meters and remote registers installed subsequent to the effective date of this article shall be sealed in place.
- D. The presence of a remote register does not waive consumer's obligations concerning access.

ARTICLE V
Violations

§ 341-25. 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.

MONTCLAIR CODE

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.]

ARTICLE I

General Provisions

§ 347-1. Purpose.¹⁹⁴

- 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.

§ 347-2. Definition of terms. [Amended 7-15-1980 by Ord. No. 80-31; 7-29-1980 by Ord. No. 80-44; 6-9-1981 by Ord. No. 81-31; 9-1-1981 by Ord. No. 81-45; 12-20-1983 by Ord. No. 83-52; 10-2-1984 by Ord. No. 84-38; 1-8-1985 by Ord. No. 84-50; 12-17-1985 by Ord. No. 85-44; 9-22-1987 by Ord. No. 87-54; 4-19-1988 by Ord. No. 88-16; 7-11-1995 by Ord. No. 95-28; 7-11-1995 by Ord. No. 95-27; 5-26-1998 by Ord. No. 98-17; 6-9-1998 by Ord. No. 98-24; 11-26-2002 by Ord. No. 02-52; 7-12-2005 by Ord. No. 05-34; 11-29-2005 by Ord. No. 05-60A; 4-25-2006 by Ord. No. 06-17; 6-13-2006 by Ord. No. 06-35; 7-25-2006 by Ord. No. 06-43; 1-23-2007 by Ord. No. 07-02; 2-11-2008 by Ord. No. 08-02; 4-3-2012 by Ord. No. O-12-24; 3-12-2013 by Ord. No. O-13-09; 6-18-2013 by Ord. No. O-13-22; 3-4-2014 by Ord. No. O-14-007; 7-21-2015 by Ord. No. O-15-016; 12-8-2015 by Ord. No. O-15-037; 6-21-2016 by Ord. No. O-16-018; Amended 5-18-2021 by Ord. No. O-21-03; 8-10-2021 by Ord. No. O-21-18; 7-26-2022 by Ord. No. O-22-17; 7-26-2022 by Ord. No. O-22-16; 4-22-2025 by Ord. No. O-25-10; 8-12-2025 by Ord. No. O-25-29; 4-21-2026 by Ord. No. O-26-08; 5-5-2026 by Ord. No. O-26-12]

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:

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 and accessory dwelling units (ADUs) pursuant to § 347-8.

ADMINISTRATIVE OFFICER — The Zoning Officer.

ADULT ENTERTAINMENT — An establishment offering entertainment of a sexual nature.

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

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.

¹⁹⁴Editor'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.

ART GALLERY — A commercial establishment that engages in the sales, loan, and/or display of paintings, sculpture, photography, video art, or other works of art. An art gallery does not include uses such as a library, museum or noncommercial gallery that may also display paintings, sculpture, video art or other works of art.

ART STUDIO — A studio for artist activities, such as paintings, sculpture, photography, video art, and the creation of artisan-related crafts, such as metalworking, glassblowing, furniture making, pottery, leathercraft and related items.

ART STUDIO, COMMERCIAL — A commercial establishment where an art, type of exercise, or activity is taught, practiced or studied, such as dance, martial arts, photography, music, painting, gymnastics, or yoga.

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.

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

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

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.

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

AVERAGE FRONT YARD SETBACK — The average setback shall be calculated using the front yard setbacks of the six nearest principal structures on the same street, three on either side of the lot in question, 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 three nearest principal structures 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.

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

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

BANK, DRIVE-THROUGH — A bank where transactions are made to customers within an automobile outside the confines of a building.

BASEMENT — That portion of a building that is partly or completely below grade. A basement shall be considered as a story where the finished surface of the floor above the basement is more than six feet above the mean adjoining grade. The mean adjoining grade shall be calculated using the existing natural grade at ten-foot intervals surrounding the building foundation walls.

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.

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

BOARD — The Planning Board or the Board of Adjustment of the Township. Where permitted by the Municipal Land Use Law, P.L. 1975, c. 291,¹⁹⁵ the Board of Adjustment may exercise those functions herein delegated to the Planning Board.

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.

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.

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.

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 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.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

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

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces adult-use cannabis in this state, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 cannabis cultivator license. A cannabis cultivator shall not operate in the Township unless and until it receives a Category F municipal license.

CANNABIS DELIVERY SERVICE — Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service which, after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 cannabis delivery license. A cannabis delivery service shall not operate in the Township unless and until it receives a Category B municipal license.

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items

195. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 cannabis distributor license. A cannabis distributor shall not operate in the Township unless and until it receives a Category D municipal license.

CANNABIS ESTABLISHMENT — A cannabis cultivator, cannabis manufacturer, cannabis distributor, cannabis wholesaler, cannabis delivery service or cannabis retailer as set forth in § 110-2 of the Montclair Code.

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 cannabis manufacturer license. A cannabis manufacturer shall not operate in the Township unless and until it receives a Category E municipal license.

CANNABIS RETAILER — A state-regulated cannabis retailer or clinical registrant, which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes the dispensation, sale, or distribution of cannabis or cannabis-derived or infused products and/or related clinical research, provided that such facility shall not cultivate, manufacture, process, or wholesale cannabis or cannabis products from such facility.

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 cannabis wholesaler license. A cannabis wholesaler shall not operate in the Township unless and until it receives a Category C municipal license.

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.

CEMETERY — Property used for the interment of the dead.

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.

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.

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.

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

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.

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.

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.

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.

FITNESS CENTER — An enclosed building or structure with facilities for conducting recreational activities such as aerobic exercises, running and jogging, and which may contain 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 nonalcoholic drinks and prepackaged snacks not prepared on the premises, and sports equipment and clothing shops.

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.

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.

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.

GENERAL OR BUSINESS OFFICE — A room or group of rooms used for conducting the offices of business, service or industry.

GROSS FLOOR AREA — The sum of the areas of all enclosed floors of a building, including habitable space in basements, mezzanines, habitable penthouses, corridors and lobbies, from the exterior face of

exterior walls, or from the center line 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.

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.

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

HEAD SHOP — A retail business that sells any type of syringe, needle, eye dropper, spoon, pipe, testing kit, rolling paper or other paraphernalia or appliances designed for or ordinarily used in smoking, testing, weighing, measuring, injecting, cooking or sniffing marijuana, cocaine, opium, hashish or other controlled dangerous substances as defined by N.J.S.A. 24:21-1 et seq.

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.¹⁹⁶

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.

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.

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.

196.Editor's Note: The former definitions of "height of a wall (for other than residential buildings)" and "height of a wall (for residential buildings)," which immediately followed this definition, were repealed 5-18-2021 by Ord. No. O-21-03.

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.

LOT FRONTAGE — The length of the front lot line measured at the street right-of-way line.

LOT LINE — Any boundary line of a lot that divides one lot from another lot or right-of-way.

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.

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.

MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER — An organization issued a permit pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, as well as any alternative treatment center deemed pursuant to Section 7 of that Act (N.J.S.A. 24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit.

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

MIXED-USE BUILDING — A building that contains both residential and nonresidential uses.

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 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.

MOVIE STUDIO — Facilities for the production of motion pictures and films, including stages, film laboratories, sound recording facilities construction, repair and storage facilities, and accessory fabrication activities.

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.

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.

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."

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.

PARKLET — The conversion of a small number of on-street parking spaces or other small sites in the public right-of-way into "public park" space, with such improvements as seating, tables and landscaping.

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

PENTHOUSE — A structure on the roof of any part of a building. Skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof-mounted antennas, solar panels 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, but not be limited to, 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 overrides 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.

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.

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

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.

RECORDING STUDIO — A facility for sound recording and mixing and/or rehearsal space.

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.

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.

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.

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.

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.

RETAIL FOOD ESTABLISHMENT — Any fixed facility in which food or drink is sold primarily for off-premises preparation and consumption.

RETAIL SALES — Establishments engaged in the selling or rental of goods or merchandise (usually to the general public for personal use or household consumption, although they may also serve business and institutional clients) and in rendering services incidental to the sale of such goods.

RETAIL SERVICES — Establishments providing services, as opposed to products, to the general public for personal or household use, including barbershops, beauty parlors, nail salons, dry-cleaning establishments, laundries, copy or printing establishments, tailors, household and electronic repair establishments and travel agencies.

RETAIL STORE, CONVENIENCE — A retail establishment of up to 5,000 square feet selling primarily food products, beverages, newspapers and magazines, candy, cigarettes, household items and a limited supply of freshly prepared foods, such as sandwiches and salads for off-premises consumption.

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 55 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.

SPLIT-ZONE LOTS — A lot or single parcel of land located in two more zones.

STEPBACK — A setback of an upper story or stories as measured from the building line of the lower stories.

STORY — That part of any building comprised between any floor and the floor or roof next above and including basements if the finished surface of the floor above the basement is more than six feet above the mean adjoining grade. The mean adjoining grade shall be calculated using the existing natural grade at ten-foot intervals surrounding the building foundation walls. 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% 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.

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.

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.¹⁹⁷

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.

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

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.

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.

TRUCK OR BUS DEPOT — Any area, lot, parcel, building or structure or part thereof used for the storage of trucks or buses.

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.¹⁹⁸

VOCATIONAL, TECHNICAL OR BUSINESS SCHOOL — A secondary or higher educational facility primarily teaching usable skills to prepare students in a trade or business.

WAREHOUSE — A building used primarily for the storage of goods and materials.

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.

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,

¹⁹⁷.Editor's Note: See Ch. 313, Taxicabs and Liveries, and Ch. 327, Vehicles and Traffic.

¹⁹⁸.Editor's Note: See Ch. 333, Vending Machines.

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.

YARD, FRONT — A yard or yards situated between the principal building nearest the street and the property line along the street, 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, 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.

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.

§ 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. [Amended 6-21-2016 by Ord. No. O-16-018]

C-1 Central Business Zone

C-2 General Business and Light Manufacturing Zone

C-3 Central Business Zone

N-C Neighborhood Commercial Zone

C. Public uses.

P Public Zone

D. ¹⁹⁹Local 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; 6-21-2016 by

199.Editor's Note: Former Subsection D, Urban renewal area, was repealed 6-21-2016 by Ord. No. O-16-018. This ordinance also redesignated former Subsection E as Subsection D.

Ord. No. O-16-018]

TCHD Town Center Historic District

Pine Street Historic District

Upper Montclair Historic Business District

Wachtung Plaza Historic District

IHL Individual Historic Landmark Overlay Zone (as listed in § 347-150.1 of the Montclair Code)

§ 347-4. Interpretation of boundaries.

- A. The boundaries of each of these zones as created by this chapter are shown on the Zoning Map, Township of Montclair, as prepared by the Montclair Township Department of Planning and Community Development and amended through June 2022, which is hereby adopted and made a part of this chapter.²⁰⁰ **[Amended 6-21-2016 by Ord. No. O-16-018; 1-24-2017 by Ord. No. O-16-054; 7-26-2022 by Ord. No. O-22-16]**
- B. Zone boundary lines are intended generally to follow municipal boundary lines, street center lines or lot lines as they are shown on the Zoning Map, prepared by the Montclair Township Department of Planning and Community Development, dated July 2015, as revised thereafter to reflect subsequent ordinance amendments changing the boundaries, numbers and/or name of the zone districts. 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; 8-25-2015 by Ord. No. O-15-020]**

§ 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. (Reserved)²⁰¹**§ 347-6.1. Administration. [Added 11-13-2017 by Ord. No. O-17-036]**

- A. No land or premises shall be used, and no building or structure shall be erected, raised, moved, extended, enlarged, altered or used, for any purpose other than a purpose permitted therein for the zone district in which it is located, and all construction shall be in conformity with the regulations provided for the zone district in which such building or premises is located.
- B. No building or structure or part thereof shall be erected, constructed, reconstructed, structurally altered or moved until there has been filed with the Construction Official an application in duplicate for a construction permit as follows:
 - (1) All applications shall be filed by the owner or his agent and shall state the intended use of the

200. 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.

201. Editor's Note: Former § 347-6, Enforcement, violations and penalties, as amended, was replaced by §§ 347-6.1 through 347-6.4 11-13-2017 by Ord. No. O-17-036.

structure and the land.

- (2) The application shall be accompanied by detailed plans and specifications, in duplicate, drawn to scale, and a plot plan, drawn to scale, the latter showing the actual dimensions in figures, all open spaces, the established building lines within the block and such other information as may be necessary or desirable to provide for the proper enforcement of this chapter.
- (3) All plans, specifications and plot plans shall be signed by a duly licensed architect of the State of New Jersey or a duly licensed professional engineer of the State of New Jersey or the owner, if such owner has prepared the plans, specifications and plot plan, in which case such owner shall also file an affidavit to that effect.
- (4) No construction permit shall be issued for the erection, construction, reconstruction, structural alteration or moving of any building or structure or part thereof unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this chapter.
- (5) 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.

§ 347-6.2. Zoning permit. [Added 11-13-2017 by Ord. No. O-17-036]

A zoning permit issued by the Zoning Officer is required before occupying any nonresidential building or nonresidential tenant space and shall be required before any building permit can be issued. A zoning permit application form shall be prepared by and made available from the Zoning Officer. The Zoning Officer shall grant or deny a zoning permit within 10 business days from the receipt of a complete zoning permit application. If the Zoning Officer fails to act within this time period, the failure shall be deemed to be an approval of the application for a zoning permit.

- A. Except for applications for minor repairs, as defined by the Uniform Construction Code, no construction permit or certificate of occupancy shall be issued unless a zoning permit has been obtained from the Zoning Officer.
- B. Required inspection. Inspection of the subject premises prior to issuance of a zoning permit shall be at the discretion of the Zoning Officer.
- C. Zoning permit exceptions. Pursuant to the above, all applicants for building permits shall apply for a zoning permit. Notwithstanding the foregoing to the contrary, the following items shall not be subject to a zoning permit:
 - (1) Replacement roofing.
 - (2) Replacement siding.
 - (3) Replacement windows and doors, where there is no change in glazing area or opening size.
 - (4) Replacing chimneys and chimney liners, where a new chimney is the same size and material as the original.
 - (5) Interior oil tank replacement.
 - (6) Furnace/boiler replacement.
 - (7) Garage door replacement, same size.

- (8) Replacement bathroom fixtures.
- (9) Replacement floors/ceilings.
- (10) Replacement kitchen cabinets/fixtures/appliances.
- (11) Installation of radon mitigation systems (interior systems only).
- (12) Installation of commercial carpet for nonresidential uses.
- (13) Minor work or ordinary maintenance as defined by the Uniform Construction Code, N.J.A.C. 5:23-1 et seq.
- (14) Interior electrical work.

§ 347-6.3. Enforcement. [Added 11-13-2017 by Ord. No. O-17-036]

- A. 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.
- B. 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.

§ 347-6.4. Violations. [Added 11-13-2017 by Ord. No. O-17-036]

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: **[Amended 1-19-2016 by Ord. No. O-15-043]**

- (1) Vestibules and storm enclosures shall not be erected for a period of time exceeding six months in any one year.
- (2) Vestibules and storm enclosures shall not encroach more than three feet nor more than 1/4 the width of the sidewalk beyond the street lot line to maintain a four-foot pedestrian passageway unobstructed by trees, light poles, trash receptacles, parking meter posts, planters and similar structures.
- (3) 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.
- (4) Vestibules and storm enclosures are only permitted to cover the public entrance doors for eating and drinking establishments.
- (5) Applicants are solely responsible to design doors and vestibules that comply with American with Disabilities Act and Uniform Construction Code regulations.

- (6) No permit shall be issued unless the applicant has posted in advance a certificate of insurance listing the Township as an additional insured.

§ 347-8. Accessory dwelling units. [Amended 7-29-1980 by Ord. No. 80-44; 2-21-2023 by Ord. No. O-22-27; 4-22-2025 by Ord. No. O-25-10; 8-12-2025 by Ord. No. O-25-29]

- A. Purpose and intent. The Montclair Township Council finds and declares that the purpose of this section is to:

- (1) Provide citizens with the opportunity to retain their homes, age in place, and create adaptive living environments for people living with disabilities.
- (2) Increase the supply of attainable housing within developed properties while putting minimal pressure on Township services such as schools and infrastructure.
- (3) Integrate these housing units, subject to the terms described herein, within existing neighborhoods, respecting the character of the neighborhood.
- (4) Provide flexible housing options for residents, in keeping with the goals of the Master Plan, that respond to changing family needs, smaller households, and increasing housing costs.
- (5) Codify the requirements and process to ensure that existing accessory dwelling units are legal and meet the Township's safety codes.

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

ACCESSORY DWELLING UNIT (ADU) — A residential living unit on the same parcel as a one- or two-family dwelling with complete independent living facilities, including a kitchen and bathroom, for one or more persons. It may take various forms: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled dwelling.

LIVING AREA — The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

PRIMARY DWELLING UNIT — The original living unit in a one-family home and the larger living unit in a two-family home. The permissible size of an ADU will be based on the size of the primary dwelling unit.

ZONING OFFICER — The local official who is responsible for processing and approving or denying applications to develop ADUs.

- C. Where permitted. ADUs shall be a permitted accessory use on lots containing one- and two-family dwellings in the R-O, R-O(a), R-1 and R-2 Zone Districts.
- D. Standards. One ADU shall be permitted on a lot located in the R-O, R-O(a) R-1 and R-2 Zones in the Township. The Zoning Officer must find that the following conditions have been met:
- (1) Either the ADU or the primary dwelling unit shall be the primary domicile of the person(s) who or entity that own(s) the property. In the case of a two-family home, the primary domicile of the owner must be one of the dwelling units or the ADU.
 - (2) (Reserved)
 - (3) In no case shall the ADU's living area be more than 40% of that of the habitable area of the principal building, up to a maximum of 800 square feet, nor less than 300 square feet, and no

more than three rooms, excluding the kitchen and bathroom.

- (4) Detached ADUs shall comply with the requirements for accessory structures in the applicable zone district and the requirements of Montclair Code § 347-22, except that the length or width for detached accessory dwelling units shall not exceed 40 feet in any one direction.
- (5) All ADUs shall comply with existing Township ordinances, zoning ordinances, and the New Jersey Uniform Construction Code (UCC).
- (6) There shall be no more than one ADU per lot.
- (7) The ADU shall be used only for residential purposes for one family. ("Family" is defined in § 347-2, Definition of terms.)
- (8) For adaptive reuse projects, ADUs that are fully handicapped accessible under New Jersey's Barrier Free Subcode²⁰² shall be granted an increase of 5% of the total maximum floor area allowed for the ADU.
- (9) For new construction, adherence to the New Jersey Barrier Free Subcode is required.
- (10) An ADU that is attached to the principal one- or two-family dwelling shall utilize complementary exterior materials and colors as the principal single-family dwelling. The ADU shall harmonize with the architectural and landscaping character of its neighborhood.
- (11) With respect to new construction, the external entrance to the ADU shall not face the same street as the external entrance to the principal dwelling unit if such external entrance to the ADU is visible from the street.
- (12) A minimum rental term of six months is required for tenants.
- (13) At least one off-street parking space shall be provided for an ADU.
- (14) No window in an ADU that faces another residential property may be located within six feet of a property line.

E. Procedures.

- (1) A new ADU may not be created nor can an existing ADU be legalized until the Zoning Officer determines that it meets the following requirements for designation:
 - (a) An application for a zoning permit on a form prescribed by the Montclair Township Department of Planning and Community Development is submitted with pertinent data, such as the names and addresses of the owners and an identification, by street number and lot and block designation, of the residence involved.
 - (b) For detached ADUs and ADUs that involve construction of an addition, the application shall be accompanied by a recent survey of the property, prepared by a licensed engineer or land surveyor, depicting the boundaries of the lot and all existing structures and improvements on the property. Older surveys are acceptable for attached ADUs.
 - (c) The application shall also be accompanied by a proposed floor plan which shall be drawn by a licensed architect or engineer, if reasonably required by the Construction Official,

202.Editor's Note: See N.J.A.C. 5:23-7.

depicting all proposed interior and exterior changes to the residence and ADU, including the relation of the ADU to the primary dwelling unit, the location of any proposed additional exterior doors, and any proposed modifications to the existing sanitary disposal system or water lines. All proposed changes and/or additions must comply with the Uniform Construction Code (UCC).

- (d) Within 10 business days after the application for an ADU is deemed complete, the Zoning Officer shall schedule a meeting with the applicant. Within 10 business days from the meeting with the applicant, the Zoning Officer shall render a final decision and notify the applicant by regular mail and email whether the proposed ADU may be deemed permitted.
- (2) All ADUs must file a deed notice with Essex County clearly indicating the presence of the ADU and the limitations of its use. A certificate of occupancy cannot be issued until the deed notice is filed.
- (3) If the Zoning Officer approves the proposed ADU, the applicant must commence construction within two years of the Zoning Officer's determination or the Zoning Officer may revoke the permit. An applicant unable to commence construction of an ADU within two years of the Zoning Officer's determination may appeal to the Zoning Officer for an extension of time for one year for good cause shown.
- (4) If the Zoning Officer denies the proposed ADU, the applicant may appeal the decision of the Zoning Officer to the Township Zoning Board of Adjustment within 45 days of the receipt of the denial from the Zoning Officer. Thereafter, the appeal shall be deemed untimely.
- (5) Construction of the ADU.
 - (a) The applicant constructing an approved ADU must comply with all existing procedures established by the Building Office and the Department of Planning and Community Development regarding applications, permits, fees, and inspections, except that the applicant must schedule a final inspection with the Construction Official and the Fire Official within 20 days of when construction of the ADU is complete. A copy of the lease must be provided if the ADU is being rented.
 - (b) The Construction Official and Fire Official shall conduct a physical inspection of the primary dwelling unit and the ADU to determine whether the construction complies with the terms on which the approval was given. If the Construction Official and Fire Official determine that the construction complies with Township ordinances and the Uniform Construction Code, (s)he shall issue a certificate of occupancy for the ADU upon the payment of a fee based on the current fee schedule for such issuance. If the construction does not comply with the terms of the approval, within 48 hours the applicant shall be sent written notification describing the noncompliance. The applicant may cure the noncompliant items and submit proof of compliance to the Construction Official and the Fire Official for reconsideration.
- (6) Owner's annual affidavit of continued compliance.
 - (a) On or before January 1 of every year, starting with the first January following the issuance of the initial certificate of occupancy for an ADU, the owner to whom the certificate of occupancy was issued shall file an affidavit in the form prescribed by the Montclair Township Department of Planning and Community Development stating that there has been no change in the conditions upon which the ADU was originally approved.

- (b) If the owner fails to file the affidavit as herein required, the certificate of occupancy issued for the ADU shall automatically be revoked within 30 days, and the Construction Official shall so notify the owner and the tenant, if any, in writing, of the revocation.
 - (c) Any continued occupancy of the ADU following notice of revocation of the certificate of occupancy shall subject the owner to a fine of \$250 for the first 30 days in which the ADU continues to be occupied. Thereafter, the fine shall be up to \$100 per day for each day that the ADU continues to be occupied, subject to a maximum of \$3,000 for each subsequent thirty-day period following the first month.
 - (d) The certificate of occupancy for the ADU may be reinstated once the required affidavit is filed and approved by the Department of Planning and Community Development.
- (7) Transfer of the property lot.
- (a) If the owner of the property in which an ADU is permitted transfers title to the property, the new owner shall apply, as herein, for a certificate of continued use of the ADU upon the terms and conditions contained herein. Such new application shall be filed within 60 days of the transfer of the property.
 - (b) Upon the Construction Official determining that there have been no changes in condition, the Construction Official shall issue a new certificate of continued use for the ADU upon the payment of a fee based on the current fee schedule for such issuance.
 - (c) An ADU may not be sold independent of the primary residence.
 - (d) When listing the property for sale with an approved ADU, the owner of the property shall disclose to all prospective buyers that the property contains an approved ADU. The Township shall confirm same on the certificate of continued use.
- (8) Inspections. Before the certificate of occupancy for the ADU is granted, the Construction Official and Fire Official shall have the right to conduct inspections to determine compliance with the provisions of this section.

§ 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.²⁰³

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.

§ 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

203. Editor's Note: See Ch. 320, Tobacco Products, and Ch. 333, Vending Machines.

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.

§ 347-17.2. Cannabis establishments. [Added 8-10-2021 by Ord. No. O-21-18; amended 4-21-2026 by Ord. No. O-26-08]

Cannabis establishments shall be permitted, pursuant to this chapter, only if the requirements of Montclair Code Chapter 110, Cannabis, and N.J.S.A. 40:48I-1 et seq., and any other applicable State of New Jersey statutes and regulations, are fully complied with.

- A. No cannabis establishment shall be allowed as a home occupation as regulated in § 347-31E.
- B. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.

- C. Buffer zone. The primary entrance of a cannabis establishment may not be closer than 250 feet from the primary entrance of the nearest pre-existing public or private K-12 school or child-care center licensed by the State of New Jersey. The buffer zone distance shall be measured in a straight line from the geometric center of the primary entrance of the cannabis establishment to the geometric center of the primary entrance of the nearest pre-existing public or private K-12 school or child-care center licensed by the State of New Jersey, unless there is an impassable barrier within those 250 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly accessible pedestrian travel path.
- D. Prohibited uses. Except as expressly permitted by this chapter and Chapter 110 of the Montclair Code, entitled Cannabis, as well as any other activity involved in the cultivation, manufacture, processing, testing, dispensation, consumption, delivery, distribution and/or sale of cannabis, marijuana or cannabis products, are expressly prohibited as land uses or otherwise in the Township of Montclair.

§ 347-17.3. Small cell wireless facilities. [Added 12-17-2024 by Ord. No. O-24-35]

- A. Definitions. Unless indicated otherwise in this chapter, the meanings of terms used herein shall be as follows:

ADMINISTRATIVE REVIEW — Ministerial review of an application by the Director of Planning and Community Development and the Township Engineer to determine whether the issuance of an approval is in conformity with the applicable provisions of this chapter.

ANTENNA — Communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of small cell wireless services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

APPLICABLE CODES — Uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Township, including any amendments adopted by the Township, or otherwise are applicable in the jurisdiction.

APPLICANT — Any individual, corporation, limited-liability company, general partnership, limited partnership, estate, trust, stock company, association of two or more persons having a joint common interest, or any other entity applying for a conditional use permit, site plan approval, variance, building permit, and/or any other related approval, for the installation, operation and/or maintaining of one or more small cell wireless service facilities.

APPLICATION — A written request on a form provided by the Township.

CO-LOCATE or CO-LOCATION — To install or mount a small cell wireless facility in the public right-of-way on an existing support structure, an existing tower, or on an existing pole to which a small cell wireless facility is attached at the time of the application.

COMMUNICATIONS FACILITY —

- (1) Collectively, the equipment at a fixed location or locations within the public right-of-way that enables communications services including:
 - (a) Radio transceivers, antennas, coaxial, fiber-optic, or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and
 - (b) All other equipment associated with any of the foregoing.

- (2) A communications facility does not include the pole, tower, or support structure to which the equipment is attached.

COMMUNICATIONS SERVICE — Cable service, as defined in 47 U.S.C. § 522(6); information service, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).

COMMUNICATIONS SERVICE PROVIDER — A provider of communications services and includes a cable operator as defined in 47 U.S.C. § 522(5).

COUNTY — The County of Essex.

dBm — "dBm" stands for decibel milliwatts, which is a concrete measurement of the wireless signal strength of wireless networks. Signal strengths are recorded in negative numbers and can range from approximately -30 dBm to -110 dBm. The closer the number is to zero, the stronger the cell signal.

DECORATIVE POLE — A pole that is specially designed and placed for aesthetic purposes.

DISTRIBUTED ANTENNA SYSTEM (DAS) — A network of spatially separated antenna nodes connected to a common source via a transport medium that provides personal wireless service within a geographic area.

ELIGIBLE FACILITIES REQUEST — Eligible facilities request as set forth in 47 CFR 1.6100, as that section may be amended from time to time.

FCC — The Federal Communications Commission of the United States.

HEIGHT — When referring to a small cell wireless facility, the height shall mean the distance measured from the preexisting grade level to the highest point on the pole, facility, or structure, including, but not limited to, any accessory, fitting, fitment, extension, addition, add-on, antenna, whip antenna, lightning rod or other types of lightning-protection devices attached to the top of the structure.

LAWS — Collectively, all federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

MACROCELL — A cellular base station that typically sends and receives radio signals from large antennas. These include traditionally recognized cellular facilities which typically are installed at heights above 50 feet.

ORDINARY MAINTENANCE AND REPAIR — Inspections, testing and/or repair that maintain functional capacity, aesthetic, and structural integrity of a communications facility and/or the associated support structure, pole, or tower, that does not require blocking, damaging, or disturbing any portion of the public right-of-way.

PERMIT or ROW PERMIT — A written authorization to install, at a specified location(s) in the public right-of-way, a communications facility, tower, or a pole to support a communications facility.

PERMITTEE — An applicant that has received a permit under this chapter.

PERSON — An individual, corporation, limited-liability company, general partnership, limited partnership, estate, trust, stock company, association of two or more persons having a joint common interest, or other entity or organization, including a governmental entity.

PERSONAL WIRELESS SERVICE — Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. § 332(c).

POLE — A legally constructed pole, such as a utility, lighting or similar pole made of wood, concrete, metal, or other material. A pole does not include a tower or support structure and does not

include a pole or structure that supports electric transmission lines.

PROVIDER — A communications service provider or a small cell wireless services provider and includes any person that owns and/or operates any communications facilities, small cell wireless facilities, poles built for the sole or primary purpose of supporting communications facilities or towers.

PUBLIC RIGHT-OF-WAY — The area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, or similar purpose. This includes any public right-of-way held by the County of Essex where the Township has authority to install lights or construct, grade, curb, pave or repair sidewalks and curbs pursuant to N.J.S.A. 27:16-6. Pedestrian walkways as defined and regulated in Montclair Code § 301-17 are excluded from consideration for small cell wireless facilities.

REPLACE or REPLACEMENT — In connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size, and scale to the existing structure and in conformance with this chapter and any other applicable regulations to address limitations of the existing structure to structurally support co-location of a communications facility.

SMALL CELL WIRELESS FACILITY — A fixed cellular base station that sends and receives radio signals, and which is typically mounted upon poles or support structures at lower elevations than macrocell facilities, that includes poles, cabinets, towers, support structures, and antennas.

SMART POLE — A decorative pole that conceals, disguises or camouflages one or more small cell wireless facility installation(s) and may include other features such as streetlighting, 911 call service access, public access wi-fi, public electronic signs, and surveillance cameras. A smart pole must allow for multiple occupants and allow space for municipal use for other services and/or equipment. Smart poles shall not have external latches, external hinges, or external cabling. The pole shall be made of an inherently rust-resistant material.

STATE — The State of New Jersey.

SUPPORT STRUCTURE — A structure in the public right-of-way other than a pole or a tower to which a small cell wireless facility is attached at the time of the application.

SURROUNDING STREETScape — The visual elements of a street, including the road, adjoining buildings, street furniture, trees, and open spaces, etc., combine to form the street's character.

TOWER — Any structure in the public right-of-way built for the sole or primary purpose of supporting a small cell wireless facility. A tower does not include a pole or a support structure.

TOWNSHIP — The Township of Montclair.

UTILITIES — Electric or communications facilities, exclusive of sewer, gas or water lines.

WIRELESS SERVICES — Any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

B. Where permitted.

- (1) In the C-1, C-2, C-3, NC, OR-3 and OR-4 Zone Districts and in redevelopment areas (R-A) where authorized by the redevelopment plan, small cell wireless facilities located in the public right-of-way are a permitted use and shall require site plan approval.
- (2) In the R-O, R-O(a), R-1, R-2, R-3 and R-4 Zone Districts, small cell wireless facilities are permitted as a conditional use subject to the following conditions:

- (a) Site plan approval is required.
- (b) The applicant must demonstrate that it cannot meet its capacity requirements other than in a residential zone.
- (c) All small cell wireless facilities must be in the public right-of-way.
- (3) Notice of any required public hearing must be given pursuant to the Municipal Land Use Law.²⁰⁴ When a small cell wireless facility is proposed to be located in a right-of-way with no specific block and lot designation, notice shall be given to all property owners within 200 feet of the proposed location of the small cell wireless facility and to all property owners within 200 feet of the nearest block and lot to the location of the proposed small cell wireless facility. The notice shall accurately describe the types of facilities proposed.

C. Bulk requirements.

- (1) Height. The maximum height of the pole shall be 35 feet, including the antennas, or 110% of the height of poles in the surrounding streetscape, whichever is less.
- (2) Distance from curblane. All poles shall be at least 18 inches and no more than five feet from the curblane.
- (3) Distance from residence. All small cell wireless facilities shall be at least 50 feet from any residential dwelling.
- (4) Location. No pole shall be erected in the public right-of-way unless it:
 - (a) Is replacing an existing pole; or
 - (b) Is approved pursuant to this section by the Township; and
 - (c) Is at least 200 linear feet from any other existing pole or proposed pole which is used to support a small cell wireless facility; and
 - (d) Is located in an area without underground utilities except as specified in Subsection D(1); and
 - (e) Does not inhibit any existing sight triangles; and
 - (f) Allows a continuous unobstructed area at least four feet in width for the public to pass and repass across the public right-of-way.
 - (g) Small cell wireless facilities may be located on private property only when the use is nonresidential.
- (5) Poles.
 - (a) Existing poles shall be used, when possible, for the placement of all small cell wireless facilities and shall minimize the number of new proposed poles in the public right-of-way to the fewest possible to meet the coverage and capacity requirements.
 - (b) All poles located in the C-1 or C-3 Central Business Zone Districts shall be smart poles.

204. Editor's Note: See N.J.S.A. 40:55d-1 et seq.

- (c) All poles located in the N-C or C-2 Zone Districts or in a federal, state or locally designated historic district shall be decorative poles to preserve the existing character and streetscape and minimize impact on surrounding properties.
- (d) All other poles shall be utility poles, light poles or decorative poles.
- (6) Antennas. Pole-mounted antennas are permitted on new and existing poles in accordance with the following requirements:
 - (a) The maximum size of all antennas is three cubic feet in volume.
 - (b) The total combined area of all antennas and equipment on a pole shall not exceed 28 cubic feet.
 - (c) Antennas are finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, to blend in compatibly with the background and to minimize the visual impact on surrounding properties.
 - (d) The antennas do not inhibit sight triangles.
 - (e) The antennas allow adequate room for the public to pass and repass across the public right-of-way.
- (7) Equipment. Pole-mounted equipment are permitted on new and existing poles, provided that each pole-mounted equipment:
 - (a) Equipment does not exceed 16 cubic feet in volume.
 - (b) Equipment is finished and/or painted and otherwise camouflaged in conformance with best available stealth technology methods to blend in compatibly with its background and to minimize its visual impact on surrounding properties.
 - (c) Equipment does not inhibit sight triangles.
 - (d) Allows adequate room for the public to pass and repass across the public right-of-way.
 - (e) All small cell wireless equipment associated with the pole or tower, including the small cell wireless equipment associated with the antenna and any preexisting equipment, shall not be more than 28 cubic feet in volume.
 - (f) Ground-mounted equipment is used only to house equipment and other supplies in support of the small cell wireless facility. Public art on equipment is encouraged to screen ground-mounted equipment cabinets in commercial districts.

D. Other requirements.

- (1) Underground utilities.
 - (a) Unless approved by a board, whenever any existing electric utilities or communications facilities are located underground within a public right-of-way, the provider shall locate its communications facilities, with the exception of the antenna and its support structure, underground at its own expense.
 - (b) For facilities or equipment such as small cell wireless facilities that cannot, by their nature, operate unless located aboveground, the provider and Township shall work to find a

suitable location for such facilities or equipment, and which may be outside the public right-of-way, only if the Township owns or otherwise manages said locations and has the authority to make them available to the applicant for its communications facilities under similar terms and conditions as locations are made available in the public right-of-way.

- E. At the time of application, per Subsection J(2)(a), the provider shall provide a network plan. The provider shall, upon completion of construction, provide the Township with as-built drawings and a map showing the location of the small cell wireless facilities and equipment.
- F. The applicant shall minimize the number of new proposed small wireless facilities to only those necessary to meet its coverage and capacity requirements.
- G. Applicants shall co-locate on existing poles when possible.
- H. Small cell wireless facilities and supporting poles shall not contain any advertising or signage, other than that which is required by the FCC and New Jersey Board of Public Utilities, as well as other applicable state, local and federal laws, and regulations.
- I. Noise. Small cell wireless facilities shall not violate the provisions of any applicable noise ordinance, including federal and state standards and Montclair Code Chapter 217.
- J. Small cell wireless facility application.
 - (1) Approval required. Except as provided in Subsection J(4) below, no person may construct, maintain, or perform any other work related to small cell wireless facilities without first receiving minor site plan approval and all other necessary approvals required under this chapter, and any subsequent approvals, permits or other authorizations required by applicable laws or the Township ordinances.
 - (2) Application requirements. The application shall be made by the provider or its duly authorized representative. Twenty copies of the application and associated documents shall be submitted to the Department of Planning and Community Development and shall contain the following:
 - (a) Network plan. A plan showing the location of all proposed small cell wireless facility locations and elevations including an evaluation of the specific small cell wireless coverage needs or deficits that the respective applicant or a specific small cell wireless carrier is seeking to remedy by the installation of the new facility. The network plan shall include:
 - [1] An inventory of all existing, proposed or approved telecommunication facilities located either within the Township or located outside the Township but providing coverage to any portion of the Township.
 - [2] A map showing the exact location of each proposed site, including latitude and longitude, ground elevation above sea level, the height of the structure, and accessory buildings on the site of the inventoried location.
 - [3] Details of the existing or proposed small cell wireless support structure and all associated equipment to be mounted thereon, or to be installed as part of such facility, which shall clearly and concisely depict all equipment and the measurements including calculations for all the antennas and equipment.
 - [4] At the Township's discretion, the network plan may be reviewed by an engineer who

specializes in this field hired by the Township and paid for by the applicant.

(b) Structural report.

[1] For existing structures, a report prepared by a licensed engineer certifying that the proposed facility will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required in order to certify to the above.

[2] For new structures, a report prepared by a licensed engineer certifying the structural integrity and safety of the proposed structure.

(c) Visual impact analysis. An analysis which shall include photographic images and photo simulations taken from the perspectives of the properties situated in closest proximity to the location(s) being proposed for the siting of the small cell wireless facility, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as their close proximity to the site, their elevation relative to the site, the existence or absence of a "clear line of sight" between the tower location and their location. Said analysis shall include an evaluation of measures that can be taken to mitigate any adverse visual impacts, including, but not limited to, screening, landscaping, artwork on the proposed small cell wireless facility, and proposed tree trimming or removal. Removal of a tree would be subject to the applicable Township ordinances.

(d) FCC compliance. A report, prepared by a licensed engineer, certifying that the proposed facility will be FCC compliant shall be submitted at the time of initial installation. The Township shall be entitled to conduct random testing and inspections by a licensed engineer engaged by the Township, but paid for by the applicant, to confirm FCC compliance post initial installation. If it is anticipated that more than one carrier and/or user is to install transmitters into the facility then the FCC compliance report shall consider anticipated exposure from all users on the facility and shall indicate whether the combined exposure levels will or will not exceed the permissible general population exposure limits. If the permissible general population exposure limits are exceeded, the applicant shall immediately cease its small cell wireless facility operation until it demonstrates that the general population exposure limits are in compliance. Such FCC compliance report shall provide the calculation or calculations with which the engineer determined the levels of RF radiation and/or emissions to which the facility will expose members of the general public. On the cover page of the report, the report shall explicitly specify the exact minimum distance factor, measured in feet, which the applicant's engineer used to calculate the level of radiation emissions to which the proposed facility will expose members of the general public. The minimum distance factor is the closest distance (i.e., the minimum distance) to which a member of the general public shall be exposed to the radiation emissions. If the levels exceed the exposure limit, then the provider must reduce the exposure.

(e) FCC license. A copy of any applicable Federal Communications Commission license possessed by any carrier named as an applicant, co-applicant, or whose equipment is proposed for installation as of the time the application is being filed with the Township.

(f) Drive test data and maps.

[1] If an applicant claims that a specific wireless carrier suffers from a significant gap in

its personal wireless services within the Township, the applicant shall conduct a drive test within the specific geographic areas within which the applicant is claiming such gap or gaps exist, for each frequency at which the carrier provides personal wireless services. The applicant shall provide the Township with the actual drive test data recorded during such drive test, in a simple format which shall include, in table format:

- [a] The date and time for the test or tests.
 - [b] A map showing the precise location of each point at which signal strength was recorded. Street addresses shall be included.
 - [c] Each signal strength recorded, measured in dBm, for each frequency. Such data is to be provided in a separate table for each frequency at which the respective carrier provides personal wireless services to any of its end-use customers.
- [2] A sworn statement of the accuracy of such drive test data. The applicant shall also submit drive test maps, depicting the actual signal strengths recorded during the actual drive test, for each frequency at which the carrier provides personal wireless services to its end-use customers.
- [3] If an applicant claims that it needs a "minimum" signal strength (measured in dBm) to remedy its gap or gaps in service, then for each frequency, the applicant shall provide three signal strength coverage maps reflecting actual signal strengths in three dBm bins, the first being at the alleged minimum signal strength, and two additional three dBm bin maps depicting signal strengths immediately below the alleged minimum signal strength claimed to be required. A sworn statement of the accuracy of such data shall be included.
- (g) Denial of service and/or dropped call records. If an applicant claims that a specific personal wireless carrier suffers from a capacity deficiency, or a gap in service that renders the carrier incapable of providing adequate coverage of its personal wireless services within the Township, then the applicant shall provide dropped call records and denial of service records evidencing the number and percentage of calls within which the carrier's customers were unable to initiate, maintain and conclude the use of the carrier's personal wireless services without actual loss of service, or interruption of service. A sworn statement of the accuracy of such data shall be included.
- (h) Indemnification and insurance. The provider, or in the case of a limited-liability company, its parent, shall provide insurance and indemnification of the Township as described in the right-of-way use agreement. Annually, the provider shall provide a certificate of insurance as proof of the following coverages:
- [1] Workers' compensation and employer's liability insurance in compliance with the state's Workers' Compensation Law; and employer's liability insurance with a minimum limit of liability of \$500,000.
 - [2] Commercial general liability insurance, including pollution coverage, with minimum limit of liability not less than \$2,000,000 per occurrence, naming the Township as an additional insured.
 - [3] Automobile liability insurance covering claims for bodily injury and property

damage arising from all owned, hired, and non-owned vehicles with minimum limit of liability not less than \$2,000,000 combined single limit naming the Township as additional insured.

- [4] Excess umbrella insurance, including pollution coverage, to provide excess coverage over the provider's commercial general liability and automobile liability insurance with limits not less than \$10,000,000.
- (i) Proprietary or confidential information in application. Applications are public records that may be made publicly available pursuant to the New Jersey Open Public Records Act.²⁰⁵ Notwithstanding the foregoing, the applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly and submitting said materials separately from the remainder of the application, and the Township Attorney shall treat the information as proprietary and confidential, subject to the New Jersey Open Public Records Act and the Township Attorney's determination that the applicant's request for confidential or proprietary treatment of application materials is reasonable. The Township shall not be required to incur any costs to protect the application materials from disclosure, other than the Township's routine procedures for complying with the New Jersey Open Public Records Act.
- (3) Right-of-way use agreement. The Township shall not issue any approval or permit unless the applicant, or a provider on whose behalf the applicant is constructing any small cell wireless facility, has applied for and received the right-of-way use agreement or otherwise has a current and valid franchise with the Township or county, as applicable, expressly authorizing use of the public right-of-way for the small cell wireless facility proposed in the application, and all applicable fees have been paid.
- (a) Prior to installing in the public right-of-way any small cell wireless telecommunications facility or any pole built for the sole or primary purpose of supporting a small cell wireless telecommunications facility, a person shall enter into a right-of-way use agreement with the Township or county, as applicable, expressly authorizing use of the public right-of-way for the communications facility, pole or tower proposed to be installed.
- (b) The term of the right-of-way use agreement with the Township shall not exceed 15 years.
- (c) The right-of-way use agreement authorizes the provider's nonexclusive use of the public right-of-way for the sole purpose of installing, maintaining and operating communications facilities, including any pole built for the sole or primary purpose of supporting the communications facilities and to provide the services expressly authorized in the agreement subject to applicable codes and applicable laws, this chapter and the terms and conditions of the agreement. It is not a warranty of title or interest in any public right-of-way, and it does not confer on the provider any interest in any location within the public right-of-way. No other right or authority is granted except as expressly set forth in the agreement.
- (d) The provider shall, at its sole cost and expense, keep and maintain its small cell wireless communications facilities in the public right-of-way in a safe condition as directed by, and to the satisfaction of, the Township, including, but not limited to, removal of any debris

205. Editor's Note: See N.J.S.A. 47:1a-1 et seq.

generated by the provider and replacement of any plants, trees or vegetation damaged or destroyed by the provider. If any of the provider's small cell wireless facilities, and appurtenances thereto, its utility poles or its structures causes damage to any public rights-of-way or interferes with the performance of any of the Township's public duties or other uses of the public rights-of-way, the provider agrees, upon notice from the Township, to promptly commence and complete all necessary repairs to cure any such damage at the provider's sole cost and expense. If the provider fails to repair the damage within 30 days after receiving notice from the Township or if an emergency necessitates immediate repair of the damage then the Township, in its sole discretion, may perform the repair work itself in which case the provider shall reimburse the Township for the cost of the repair work within 30 days after receiving a statement detailing such cost.

- (e) Notwithstanding the foregoing, in the event of an emergency, a provider or its duly authorized representative may work in the public right-of-way prior to obtaining a permit, provided that the provider shall attempt to contact the Township prior to commencing the work and shall apply for a permit as soon as reasonably possible, but not later than 24 hours after commencing the emergency work. For purposes of this subsection, an "emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.
 - (f) Except as otherwise provided in the right-of-way use agreement, franchise agreement or license, the provider may remove its communications facilities from the right-of-way at any time, upon not less than 30 days' prior written notice to the Township, and may cease paying the Township any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the public right-of-way as determined by the Township Engineer. In no event shall a provider be entitled to a refund of any fees paid prior to removal of its communications facilities, poles, or towers.
- (4) Ordinary maintenance and repair. Site plan approval shall not be required for ordinary maintenance and repair. The provider or other person performing the ordinary maintenance and repair shall obtain any other permits required by applicable laws and shall notify the Township in writing at least 48 hours before performing the ordinary maintenance and repair. Notwithstanding the foregoing, the Township reserves the right to inspect the applicant's small wireless facilities at any time to determine if the existing configuration matches the configuration contained in the most recently issued permit, and the applicable right-of-way use agreement. The applicant shall bear no costs for said inspections. However, if it is determined that an existing small cell wireless facility is found to be larger than the dimensions specified in the most recently issued applicable permit, then the applicant shall be in violation of this chapter. The applicant shall receive notice from the Township and, upon receipt of such notice, be required to restore the site within 10 days to the configuration of the most recently approved permit or retroactively apply for approval for the unapproved modifications. In such instances, the applicant will be responsible for costs and fees incurred by the Township to perform inspections and review.
- (5) Material changes. Unless otherwise agreed to in writing by the Township, any material changes to an application, as determined by the Township in its sole discretion, shall be considered a new application for purposes of the time limits set forth in this chapter, unless otherwise provided by applicable laws.
- (6) Effect of permit. A permit from the Township authorizes an applicant to undertake only the

activities in the public right-of-way specified in the application and permit, and in accordance with this chapter and any general conditions included in the permit. A permit does not authorize attachment to or use of existing poles, towers, support structures or other structures in the public right-of-way; a permittee or provider must obtain all necessary approvals from the owner of any pole, tower, support structure or other structure prior to any attachment or use. A permit does not create a property right or grant authority to the applicant to interfere with other existing uses of the public right-of-way.

- (7) Batch permit. An applicant may simultaneously submit no more than 25 applications for communications facilities, or may file a single, consolidated application covering such communications facilities, provided that the proposed communications facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the Township. If the applicant files a consolidated application, the applicant shall pay the application fee calculated as though each communications facility were a separate application.

K. Restoration requirements.

- (1) The provider, or its agent or contractor, shall restore, repair and/or replace any portion of the public right-of-way that is damaged or disturbed by the provider's communications facilities, poles, towers, or work in or adjacent to the public right-of-way. Said restoration, repair and replacement shall be done in a timely fashion to the satisfaction of the Township Engineer, who will determine good workmanship as well as compliance with applicable standards and ordinances regarding road openings and pavement and sidewalk repair.
- (2) If the provider fails to timely restore, repair, or replace the public right-of-way as required in this section, the Township or its contractor may do so, and the provider shall pay the Township's costs and expenses in completing the restoration, repair, or replacement.

L. Removal, relocation, and abandonment.

- (1) Within 30 days following written notice from the Township, the provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its communications facilities, poles, support structures or towers within the public right-of-way, including relocation of aboveground communications facilities underground (consistent with the provisions of this chapter), whenever the Township has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance or installation of any Township improvement or private real estate development, the operations of the Township in, under or upon the public right-of-way, or otherwise is in the public interest. The provider shall be responsible to the Township for any damages or penalties it may incur because of the provider's failure to remove or relocate communications facilities, poles, support structures or towers as required in this section.
- (2) The Township retains the right and privilege to cut or move any communications facility, pole, support structure or tower located within the public right-of-way of the Township, as the Township may determine, in its sole discretion, to be necessary, appropriate, or useful in response to any public emergency. If circumstances permit, the Township shall notify the provider and give the provider an opportunity to move its own facilities prior to cutting or removing the communications facility, pole, support structure or tower. In all cases, the Township shall notify the provider after cutting or removing the communications facility, pole, support structure or tower as promptly as reasonably possible.

- (3) A provider shall notify the Township of abandonment of any communications facility, pole, support structure or tower at the time the decision to abandon is made; however, in no case shall such notification be made later than 30 days' prior to abandonment. Following receipt of such notice, the provider shall remove its communications facility, pole, support structure or tower at the provider's own expense, unless the Township determines, in its sole discretion, that the communications facility, pole, support structure or tower may be abandoned in place. The provider shall remain solely responsible and liable for all its communications facilities, poles, support structures and towers until they are removed from the public right-of-way unless the Township agrees in writing to take ownership of the abandoned communications facilities, poles, support structures or towers.
- (4) If the provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its communications facilities, poles, support structures or towers or remove any of its abandoned communications facilities, poles, support structures or towers as required in this section, the Township or its contractor may do so, and the provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Township incurs arising from the delay.

M. Application review.

- (1) Pre-application meeting. Prior to making a formal application with the Township for use of the public right-of-way, all applicants are advised to meet voluntarily with the Township Engineer and Director of Planning and Community Development to review the scope of the applicant's proposal. The applicant may also request a review by the Development Review Committee.
- (2) All applications made under this chapter shall be expedited to comply with the shot clocks set forth in the FCC order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by the Removal of Barrier to Infrastructure Investment," WT Docket No. 17-79; WC Docket No. 170-84.
- (3) The Township shall advise the applicant in writing of its final decision.

N. Preexisting sites and municipal agreements.

- (1) Any communications facilities in the public right-of-way existing at the time of the adoption of the provisions of this chapter shall be required to comply with the provisions of this chapter.
- (2) Any right-of-way use agreements entered between the Township and any provider regarding communications facilities in the public right-of-way shall be required to conform to the provisions and standards of this chapter. To the extent the provisions of any existing such agreement conflict with this chapter, said provisions, at the discretion of the Township, shall be replaced and superseded by the applicable terms of this chapter.

O. New Jersey One Call. In addition to compliance with the applicable provisions of this chapter, prior to the start of any installation of poles, support structures, small wireless facilities or other communications facilities that require excavation, the applicant shall contact New Jersey One Call at 811 at least three full business days' prior to the commencement of work.

P. Violations and penalties. Violation of any of the provisions of this chapter shall be punishable with a civil penalty of \$500 for each violation which continues more than 10 days after written notice of such violation is provided to the person or applicant. Each day, after such notice, that a violation

occurs or is permitted to exist by the person or applicant constitutes a separate offense.

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 lot width required indicated on the Montclair Township Zoning Map dated August 1, 2017, establishes the minimum lot width 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 widths at the time this subsection is adopted are permitted. **[Added 11-29-2005 by Ord. No. 05-60A; amended 5-18-2021 by Ord. No. O-21-03; 4-12-2023 by Ord. No. O-23-08]**
- 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 Zoning 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; amended 3-12-2013 by Ord. No. O-13-09; 4-23-2019 by Ord. No. O-19-012; 4-12-2023 by Ord. No. O-23-08]**
- (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.
 - (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 (feet)	Minimum Lot Depth (feet)
50 to 60	150
61 to 70	155
71 to 80	155
81 to 90	170
91 to 100	180
101 and over	200

- 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. Additional requirements for residential uses. [Amended 2-7-2023 by Ord. No. O-22-23]

- A. For one- and two-family dwellings, there shall be no more than one principal building per lot. However, as provided in § 347-8, one- and two-family dwellings may have one accessory dwelling on such lot. Each lot shall front on a public street. **[Amended 2-21-2023 by Ord. No. O-22-27]**
- B. Maximum impervious coverage.
- (1) For lots less than 10,000 square feet in area, the maximum impervious coverage shall be 55% of the lot area.
 - (2) For lots over 25,000 square feet in area, the maximum impervious coverage shall be 35% of the lot area.
 - (3) For lots with areas between 10,000 square feet and 25,000 square feet in area, the maximum impervious coverage shall be equal to 55 divided by the square root of the lot area.
- C. The requirements set forth in Montclair Code Chapter 294, Steep Slopes, and Montclair Code Chapter 295, Stormwater Control, are also applicable to residential uses.

§ 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 in all zones, except not more than 15% in the RO and R-O(a) Zones. **[Amended 7-15-1980 by Ord. No. 80-31; 7-12-2005 by Ord. No. 05-34; 5-18-2021 by Ord. No. O-21-03]**
- 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.²⁰⁶ **[Added 3-3-1981 by Ord. No. 81-4]**
- 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 four feet of the principal building shall be considered part of such building. Accessory buildings less than 100 square feet in size are exempt. **[Added 5-18-2021 by Ord. No. O-21-03]**
- 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. **[Added 5-18-2021 by Ord. No. O-21-03]**
- G. A maximum of two accessory buildings are permitted per lot, excluding accessory buildings less than 100 square feet in area. **[Added 5-18-2021 by Ord. No. O-21-03]**

§ 347-23. Height exceptions. [Amended 6-13-2006 by Ord. No. 06-35; 5-18-2021 by Ord. No. O-21-03]

- 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% of the total rooftop.
 - (3) The maximum height of a penthouse shall be 10 feet above the height of the roof.
 - (4) Habitable penthouse space is considered a story and is not exempt from the maximum height

206.Editor's Note: See Ch. 305, Swimming Pools.

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 guardrail 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.
- C. Parapet walls and cornices shall be permitted to exceed such height limit by not more than five feet.
- D. 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.

§ 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.²⁰⁷

§ 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.

207. 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.

- 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.²⁰⁸

208.Editor's Note: Former §§ 347-28.1, Width of lots; 347-28.2, Lot sizes in R-0, R-0(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.
- D. Small cell wireless facilities pursuant to the conditions in § 347-17.3B(2) and also pursuant to the bulk requirements in § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**

§ 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 1987²⁰⁹ 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.

§ 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.²¹⁰

§ 347-33. Bulk requirements. [Amended 8-31-1982 by Ord. No. 82-30; 12-17-1985 by Ord. No. 85-44; 11-26-2002 by Ord. No. 02-52; 7-12-2005 by Ord. No. 05-34; 11-29-2005 by Ord. No. 05-63; 4-25-2006 by Ord. No. 06-17; 6-13-2006 by Ord. No. 06-35; 3-11-2008 by Ord. No. 08-09; 5-18-2021 by Ord. No. O-21-03; 2-7-2023 by Ord. No. O-22-23]

Height and setback of principal structures shall be as follows:

- A. Maximum height and number of stories.
 - (1) Maximum height: 35 feet.
 - (2) Maximum number of stories: 2 1/2.
- 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.
- C. Side yard setback.
 - (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.

209.Editor's Note: N.J.S.A. 30:5B-16 through 5B-25.

210.Editor's Note: Said map is included in the pocket at the end of this volume.

- (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.
 - (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.
- E. The maximum building coverage shall be 20%, and the maximum impervious coverage shall be as set forth in Montclair Code § 347-20B.
- 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.

§ 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. Bulk requirements. [Amended 8-31-1982 by Ord. No. 82-30; 11-26-2002 by Ord. No. 02-52; 6-13-2006 by Ord. No. 06-35; 5-18-2021 by Ord. No. O-21-03; 2-7-2023 by Ord. No. O-22-23]

- A. The height regulations shall be the same as for the R-O Zone.
- 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.
- 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%, and the maximum impervious coverage shall be as set forth in Montclair Code § 347-20B.
- E. An attached garage with no habitable space above shall not extend beyond the front building line established by the rest of the principal structure.

§ 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. Bulk requirements. [Amended 8-31-1982 by Ord. No. 82-30; 12-17-1985 by Ord. No. 85-44; 7-12-2005 by Ord. No. 05-34; 11-29-2005 by Ord. No. 05-63; 4-25-2006 by Ord. No. 06-17; 6-13-2006 by Ord. No. 06-35; 3-11-2008 by Ord. No. 08-09; 4-3-2012 by Ord. No. O-12-25; 5-18-2021 by Ord. No. O-21-03; 2-7-2023 by Ord. No. O-22-23]

Height and setback of principal structures shall be as follows:

- A. Maximum height and number of stories.
- (1) Maximum height: 35 feet.
 - (2) Maximum number of stories: 2 1/2.
- B. Front yard setback.
- (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.
 - (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.
- C. Side yard setback.
- (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.
 - (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.
- E. The maximum building coverage shall be 25%.
- 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.
- G. The maximum impervious coverage shall be as set forth in Montclair Code § 347-20B.

§ 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)²¹¹
- 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]**

211.Editor's Note: Former Subsection B, regarding the fire rating, was repealed 11-26-2002 by Ord. No. 02-52.

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.
- D. Small cell wireless facilities pursuant to the conditions in § 347-17.3B(2) and also pursuant to the bulk requirements in § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**

§ 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. Bulk requirements. [Amended 2-7-2023 by Ord. No. O-22-23]

Bulk requirements 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. 07-35²¹²]**
- 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 Montclair²¹³ 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.

212.Editor's Note: This ordinance also redesignated former Subsections D and E as Subsections E and F, respectively.

213.Editor's Note: Currently, see Ch. 121, Construction Codes, Uniform.

- (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.
- C. Private and public schools, under the conditions in § 347-12. **[Amended 6-24-1980 by Ord. No. 80-41]**
- D. ²¹⁴Small cell wireless facilities pursuant to the conditions in § 347-17.3B(2) and also pursuant to the bulk requirements in § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**
- 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.

214. 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.

- (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. Bulk requirements. [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; 7-10-2007 by Ord. No. 07-35; 2-7-2023 by Ord. No. O-22-23]

- 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 bulk requirements shall be as specified as for the R-1 Zone in § 347-45.
- B. For new multifamily dwellings, the following requirements shall apply:
- (1) Maximum building height and number of stories.
 - (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, and the maximum impervious coverage shall not exceed 65% 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:

- (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]**
- D. Small cell wireless facilities pursuant to the bulk requirements of § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**

§ 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. Museums, subject to the following conditions: **[Added 10-18-1988 by Ord. No. 88-65]**
 - (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. Bulk requirements. [Amended 4-25-2006 by Ord. No. 06-17; 2-7-2023 by Ord. No. O-22-23]

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. The maximum building coverage shall be 30%, and the maximum impervious coverage shall be 65%.
- 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]**
- D. Small cell wireless facilities pursuant to the bulk requirements of § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**

§ 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. All required parking shall be provided on site. **[Amended 5-18-2021 by Ord. No. O-21-03]**

§ 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 and other educational and event spaces associated with the arts and entertainment industry. **[Amended 9-29-2015 by Ord. No. O-15-025]**
 - (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) ²¹⁵Mixed-use buildings that meet the following requirements: **[Added 7-26-2022 by Ord. No. O-22-17]**
 - (a) Permitted nonresidential uses, other than office uses, are provided along the first floor of all street-facing facades with a depth of at least 30 feet measured from the building wall. A residential lobby may also occupy the first floor frontage.
 - (b) Any curb cut for access lanes to parking shall not interrupt the street frontage of the building.
 - (c) All parking shall be screened as required in Montclair Code § 347-82A.
- (8) Educational play centers.
- (9) Small cell wireless facilities are a permitted principal use pursuant to the bulk requirements of § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**
- 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.²¹⁶
- D. The following principal uses shall be permitted as conditional uses in the C-1 Central Business Zone:
 - (1) (Reserved)²¹⁷
 - (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.

215.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).

216.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.

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

- (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.

- (6) Cannabis retailers licensed by the State of New Jersey and the Township of Montclair, subject to the following conditions: **[Added 8-10-2021 by Ord. No. O-21-18]**
 - (a) The facility is located on:
 - [1] Bloomfield Avenue; or
 - [2] Lackawanna Plaza, west side only, between Bloomfield Avenue and the Township-owned right-of-way situated opposite the intersection of Greenwood Avenue.
 - (b) The requirements in Montclair Code § 347-17.2 are met.
- (7) Medical cannabis alternative treatment centers licensed by the State of New Jersey and the Township of Montclair, subject to the following conditions: **[Added 8-10-2021 by Ord. No. O-21-18]**
 - (a) The facility is located above the first floor.
 - (b) The requirements in Montclair Code § 347-17.2 are met.
- (8) Cannabis establishments, other than cannabis retailers: **[Added 8-10-2021 by Ord. No. O-21-18]**
 - (a) The facility is located above the first floor.
 - (b) The requirements in Montclair Code § 347-17.2 are met.

§ 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; 7-21-2015 by Ord. No. O-15-016; 5-18-2021 by Ord. No. O-21-03; 9-21-2021 by Ord. No. O-21-23]

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. 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.

§ 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 exclusively shall have a minimum lot width of 60 feet and a minimum lot area of 10,000 square feet. **[Amended 1-23-2007 by Ord. No. 07-02; 7-26-2022 by Ord. No. O-22-17]**
- (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.
 - (c) A minimum stepback of 10 feet shall be provided for all stories above the third floor. **[Added 7-26-2022 by Ord. No. O-22-16]**
- (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]**
- L. Cannabis establishments, other than cannabis retailers, and medical cannabis alternative treatment centers licensed by the State of New Jersey and the Township of Montclair, subject to the following conditions: **[Added 8-10-2021 by Ord. No. O-21-18]**
 - (1) The facility is not located on Walnut Street.
 - (2) Medical cannabis alternative treatment centers are only permitted above the first floor.
 - (3) The requirements in Montclair Code § 347-17.2 are met.
- M. Mixed-use buildings that meet the following requirements: **[Added 7-26-2022 by Ord. No. O-22-17]**
 - (1) Permitted nonresidential uses, other than office uses, are provided along the first floor of all street-facing facades with a depth of at least 30 feet measured from the building wall. A residential lobby may also occupy the first floor frontage.
 - (2) Any curb cut for access lanes to parking shall not interrupt the street frontage of the building.
 - (3) All parking shall be fully screened or enclosed so as not to be visible from any public area.
- N. Small cell wireless facilities are a permitted principal use pursuant to the bulk requirements of § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**

§ 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 mixed-use buildings, 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; 7-26-2022 by Ord. No. O-22-17]**
- 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 mixed-use, 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; 7-26-2022 by Ord. No. O-22-17]**
- 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-use buildings that meet the following requirements: **[Amended 7-26-2022 by Ord. No. O-22-17]**
 - (1) Maximum density of 28 units per acre.
 - (2) Permitted nonresidential uses, other than office uses, occupy the first floor along all street-facing facades with a depth of at least 30 feet measured from the building wall. A residential lobby may also occupy the first floor frontage.
 - (3) Any curb cut for access lanes to parking shall not interrupt the street frontage of the building.
 - (4) All parking shall be fully screened or enclosed so as not to be visible from any public area.
- 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.
- J. Cannabis retailers licensed by the State of New Jersey and the Township of Montclair, subject to the following conditions: **[Added 8-10-2021 by Ord. No. O-21-18]**
 - (1) The facility is located on Valley Road between Walnut Street and James Street.
 - (2) The requirements in Montclair Code § 347-17.2 are met.
- K. Small cell wireless facilities are a permitted principal use pursuant to the bulk requirements of § 347-17.3. **[Added 12-17-2024 by Ord. No. O-24-35]**

§ 347-91. Prohibited uses. [Added 10-17-1995 by Ord. No. 95-38]

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

B. The following uses are also prohibited: **[Added 12-8-2015 by Ord. No. O-15-037]**

- (1) Head shops.

§ 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 and mixed-use buildings, 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. **[Amended 7-26-2022 by Ord. No. O-22-17]**

§ 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; 7-26-2022 by Ord. No. O-22-17]**
 - (1) The maximum building height shall be 36 feet for residential buildings and for mixed-use 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-use 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 and mixed-use buildings, the following setback requirements shall apply: **[Amended 7-26-2022 by Ord. No. O-22-17]**
 - (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.²¹⁸

§ 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.

218.Editor's Note: See Ch. 281, Site Plan Review.

ARTICLE XVI
C-3 Central Business Zone
[Added 6-21-2016 by Ord. No. O-16-018²¹⁹]

§ 347-100. Purpose. [Amended 5-5-2026 by Ord. No. O-26-12]

The purpose of the C-3 Central Business Zone is to preserve and reinforce the scale and character of the historic buildings along Glenridge Avenue, Church Street, Park Street, Midland Avenue and the southern side of Bloomfield Avenue between Elm Street and Maple Avenue. This district will reinforce the pedestrian-oriented streetscape environment, while also supporting the burgeoning cultural and entertainment-related uses that characterize the area.

§ 347-100.1. Permitted principal and conditional uses.

A. The following principal uses shall be permitted:

- (1) Restaurants and eating and drinking establishments, but not drive-in or drive-through restaurants.
- (2) Retail sales.
- (3) Retail food establishments.
- (4) Retail store, convenience.
- (5) Art galleries.
- (6) Art studios.
- (7) Movie studios.
- (8) Recording studios.
- (9) Banks.
- (10) Commercial recreation facilities.
- (11) Educational play centers.
- (12) Public parking decks.
- (13) Mixed-use buildings that meet the following requirements: [Added 7-26-2022 by Ord. No. O-22-17]
 - (a) Permitted nonresidential uses, other than office uses, are provided along the first floor of all street-facing facades with a depth of at least 30 feet measured from the building wall. A residential lobby may also occupy the first floor frontage.
 - (b) Any curb cut for access lanes to parking shall not interrupt the street frontage of the building.
 - (c) All parking shall be screened as required in Montclair Code § 347-82A.

219.Editor's Note: This ordinance also repealed former Art. XVI, UR Urban Renewal Zone.

- B. The following principal uses shall be permitted on all upper floors and on the first floor only if located behind a use permitted in Subsection A and provided that the area dedicated to the use includes no more than 50% of the depth of the building:
- (1) Educational or quasi-educational establishments.
 - (2) Arts studio, commercial.
 - (3) Gyms and health clubs.
 - (4) General, business and professional offices, including medical offices, finance, insurance and real estate offices.
 - (5) Municipal, county, state and federal government offices.
 - (6) Nonprofit institutional uses.
- C. The following principal uses shall be permitted on all but the first floor:
- (1) Apartments.

§ 347-100.2. Conditional uses.

The following principal uses shall be permitted as conditional uses:

- A. Private parking decks, subject to the following conditions:
- (1) The facade of the parking deck facing a public street shall have an architectural finish in keeping with the commercial character of the surrounding area.
 - (2) In order to maintain the commercial streetscape, commercial uses shall be maintained at the ground level of the parking deck on a public street for a minimum depth of 30 feet. **[Amended 7-26-2022 by Ord. No. O-22-17]**
- B. Commercial parking lots, subject to the following conditions:
- (1) All commercial parking lots shall prepare a site plan that shall be approved by either the Planning Board or the Board of Adjustment.
 - (2) The approved site plan will indicate the number of cars that may be parked in the lot, and no more than the approved number of cars shall be parked on the site at all times.
 - (3) The parking lot shall be designed consistent with the requirements set forth in §§ 281-9, 347-102 and 347-104 of the Montclair Code.
 - (4) The parking lot shall be surrounded by a fence or landscaping designed to screen the cars from public view and must be designed to maintain sight triangles for pedestrian and vehicular traffic at all points of egress.
 - (5) Any trash receptacles located in the parking area shall be enclosed pursuant to § 281-8.1H of the Montclair Code.

§ 347-100.3. Permitted accessory uses.

The following principal uses shall be permitted as accessory uses:

- A. Uses that are customarily incidental to a principal use.
- B. Parklets.
- C. Surface parking.

§ 347-100.4. Prohibited uses.

Any use not permitted is strictly prohibited, including the following uses:

- A. Drive-in and drive-through establishments, including banks.
- B. Adult entertainment uses.
- C. Tattoo parlors, including body-piercing establishments.
- D. New and used automobile sales, automobile rentals, automobile service stations, automobile repair establishments and automobile washing establishments.
- 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. 2C39-1.
- J. Head shops.

§ 347-100.5. Area, height and setback requirements. [Amended 7-26-2022 by Ord. No. O-22-17; 5-5-2026 by Ord. No. O-26-12]

- A. Lot size requirements.
 - (1) Residential uses: 20,000 square feet.
 - (2) Mixed-use buildings and nonresidential uses: 10,000 square feet.
- B. Lot width requirements.
 - (1) Residential uses: 100 feet.
 - (2) Mixed-use buildings and nonresidential uses: 60 feet.
- C. Principal structures:
 - (1) Maximum building height: thirty-seven feet.
 - (2) Maximum number of stories: three stories.
 - (3) Front yard setback: zero feet, and no building shall be set back further than the greater setback of buildings on the adjoining lots.
 - (4) Side yard setback: zero feet, except that where a side yard is provided, such side yard shall be a

minimum of six feet.

(5) Minimum rear yard setback: 10 feet.

(6) Maximum density: 40 units per acre.

(7) (Reserved)

(8) Where off-street loading presently exists, subsequent development shall continue to require off-street loading.

D. Accessory structures.

(1) No parking or accessory structure shall be permitted in the front yard.

(2) Maximum height: 15 feet.

(3) Side yard setback: four feet.

(4) Rear yard setback: four feet.

E. Public parking decks are excluded from the requirements set forth Montclair Code § 347-100.5.

F. For split-zone lots, the use, bulk, height and setback requirements for each zone shall apply to the subject property, except that the minimum rear yard setback requirement for the principal building in the commercial zone shall not apply provided that the principal building shall not extend into the residential zone. The required onsite accessory parking for the commercial use may be extended into that part of the premises which is located in a residential zone district and such parking facilities shall be subject to all applicable requirements in Montclair Code Chapter 281, Site Plan Review.

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; 6-21-2016 by Ord. No. O-16-018; 9-21-2021 by Ord. No. O-21-23]

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.

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

Use	Minimum Number of Spaces
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 establishments	1 per 3 seats, plus 1 per 2 seats in lounge or bar areas
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 either a hard-surface pavement or

a pervious paving system, as detailed in the latest edition of the New Jersey Stormwater Best Management Practices Manual, 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. [Amended 11-26-2002 by Ord. No. 02-52; 2-7-2023 by Ord. No. O-22-23]

- 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. 82-52²²⁰]

§ 347-102.1. Mechanical parking stackers. [Added 9-21-2021 by Ord. No. O-21-23]

- A. Mechanical stackers are discouraged and shall not be permitted to count toward the minimum number of required parking spaces.
- B. Mechanical parking stackers may be permitted only with site plan approval.
- C. Mechanical parking stackers located outside shall comply with all principal building setback requirements and be fully screened from public view, both from public rights-of-way and adjacent properties.
- D. Mechanical parking stackers located within a building must ensure that the exterior facade of the area containing the units is not visually distorted from the norm and the exterior facade is consistent with other portions of the building facade to the satisfaction of the approving Board.

§ 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.

220. 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.

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 maximum sign area shall be 12 square feet and the maximum sign height shall be six feet.
[Amended 4-23-2019 by Ord. No. O-19-012]
- 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.²²¹
 - (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.

221. Editor's Note: See Ch. 121, Construction Codes, Uniform.

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.²²²

§ 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.

222.Editor's Note: See Ch. 121, Construction Codes, Uniform.

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.²²³

DISTRICT — See "landmark district," as defined herein.

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

HISTORIC DISTRICT — Shall have the same meaning as "landmark district" or "district" as defined herein.**[Added 11-18-2019 by Ord. No. O-19-021]**

HISTORIC PRESERVATION OFFICER — The officer designated by the Manager, responsible for processing preservation plans, for planning, developing, coordinating, and implementing historic, architectural and archeological preservation projects and activities, for preparing reports and recommendations in connection with permit applications, and for executing and furthering the purposes of Article XIII. The duties of the Historic Preservation Officer may be assigned by contract to an independent individual or firm, as long as the firm designates a specific person to hold the title. The Historic Preservation Officer shall be qualified by education and experience to perform the duties set forth herein.**[Added 11-18-2019 by Ord. No. O-19-021]**

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

HISTORIC SITE — Any real property, man-made building or structure, natural object or configuration of any portion or group of the foregoing, or which is the location of a significant event or series of events, a prehistoric or historic occupation or activity, whether public or private, which has been designated by the Commission, the Planning Board in the Master Plan or in a periodic general reexamination report, or the governing body pursuant to N.J.S.A. 40:55D-65 or 40:55D-65.1, as having historical, archeological, cultural, scenic or architectural significance. **[Added 9-26-2023 by Ord. No. O-23-06]**

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.²²⁴

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.

§ 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.

224. Editor's Note: The former definition of "site," which immediately followed this definition, was repealed 9-26-2023 by Ord. No. O-23-06.

- A. The Mayor 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." [Amended 10-18-2016 by Ord. No. O-16-039]
- 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.²²⁵ 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.
- (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. [Amended 11-18-2019 by Ord. No. O-19-021]

- (1) 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 designated local landmark district.
 - (a) Improvement, including any improvement by addition, alteration or replacement.
 - (b) Change in exterior elevation.
 - (c) New construction of a principal or accessory structure.
 - (d) Any change in existing, or addition of new, signs or exterior lighting.

225. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (e) Demolition of less than substantially all of a building or facade. Activity in this category shall be reviewed according to the criteria and standards in § 347-142.1E(3).
 - (f) Work associated with a development application approved by the Planning Board or Zoning Board of Adjustment is exempt from this requirement.
 - (2) Total demolition of any landmark or any building, structure, site or object located within a landmark district, including total demolition associated with a development application either pending before or approved by the Planning Board or Zoning Board of Adjustment, or of an historic structure as defined in § 347-142, is governed by § 347-142.1 et seq.
- 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.²²⁶

§ 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.²²⁷ 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.
- 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.

226. Editor's Note: Former Subsection D, Review criteria for demolition, and Subsection E, Criteria regarding relocation of historic buildings or structures, which immediately followed, were repealed 11-18-2019 by Ord. No. O-19-021.

227. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

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.)



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).



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).

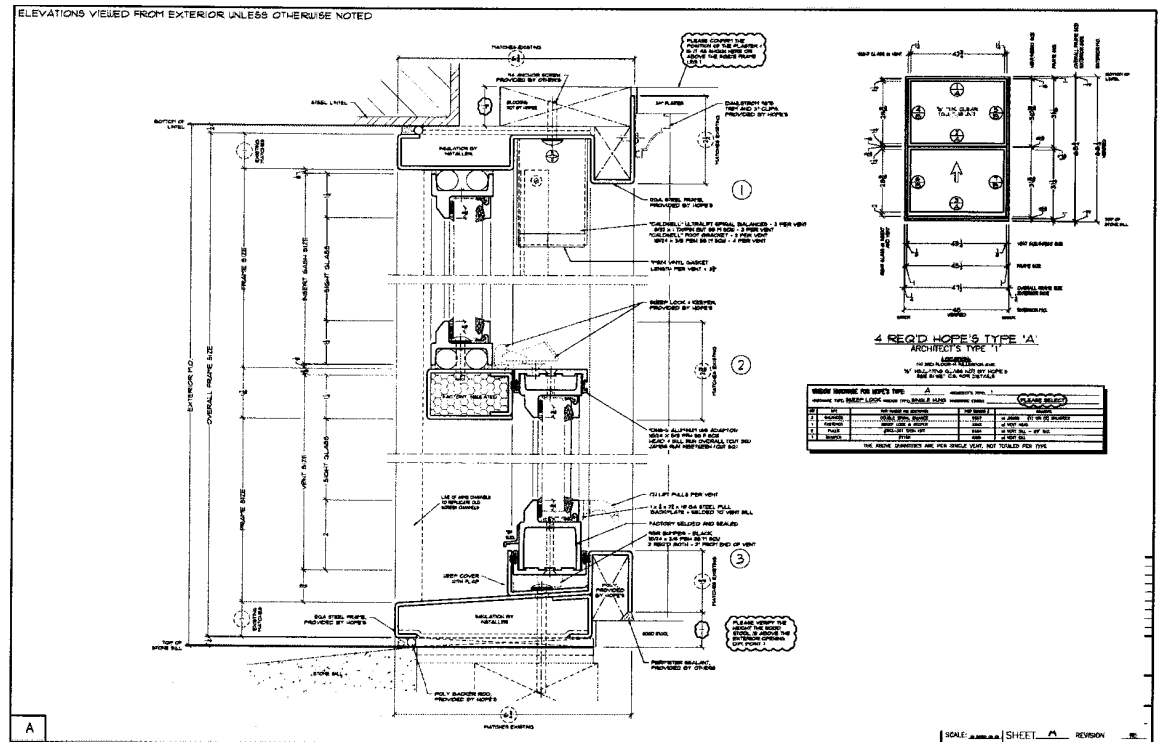


Figure 4: Sample of Window Details

- (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.²²⁸

§ 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

228. Editor's Note: Former Subsection D(7), Demolition of structures, which immediately followed, was repealed 11-18-2019 by Ord. No. O-19-021.

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. **[Amended 11-18-2019 by Ord. No. O-19-021]**

§ 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. [Amended 7-9-2019 by Ord. No. O-19-020]

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 the Historic Preservation Element of the Master Plan except applications that involve only the following:

- A. Changes to interiors.
- B. Changes not visible to the public other than relocation or demolition.

§ 347-142.1. Demolition of historic structures. [Added 11-18-2019 by Ord. No. O-19-021]

- A. Purpose. In addition to the purposes enumerated in § 347-127:

- (1) It is the intent of this article to preserve the integrity and authenticity of historic structures and the character, ambience and stability which these structures bestow on the neighborhoods and the community. The Township's historic structures are woven into the fabric and identity of the community. The demolition of an historic structure is a tear in that fabric that qualitatively changes the ambience and environment.
- (2) It is the Township Council's intent that this article provide notice to current owners and those who in the future will own historic structures that the Township regulates and protects its historic buildings, including prohibiting demolition in cases where the application of the criteria and standards set forth in this article support that conclusion.
- (3) The Township Council recognizes that the Township's property owners and public officials are stewards of the lands and historic structures, committed to encouraging and managing appropriate growth while preserving and protecting the historic and natural environment.
- (4) The jurisdiction and procedures of the Planning Board and Board of Adjustment are intended to regulate what can be built on a particular property, and not whether an historic structure should or should not be demolished. As authorized by the Municipal Land Use Law, N.J.S.A. 40:55D-111, the Historic Preservation Commission has approval power concerning historic preservation over those aspects of a development application not determined by either land use board.
- (5) The Historic Preservation Commission is constituted by statute with the expertise and judgment to determine the impact of the demolition of an historic structure. It is the intention of this section to confer the maximum authority consistent with the Municipal Land Use Law, particularly N.J.S.A. 40:55D-111, to review and approve or disapprove applications to demolish

an historic structure.

- (6) The Township Council recognizes that many applications subject to review because of the property location or the broad definition of "demolition" will have little or no impact on the historic context or character of the Township. In order to minimize the delays and costs to both the applicant and the Township associated with such review, this article also provides for an expedited procedure for low-impact cases.
- (7) It is not the intent of this article to discourage contemporary architectural expression or to encourage new construction that emulates existing buildings of historical or architectural interest or of a certain period or architectural style, but to preserve historic structures and the integrity of historic districts for the purposes enumerated in this article.

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

ADMINISTRATIVE OFFICER — For purposes of this Article XXIII, the Zoning Officer.

HISTORIC BUILDING, SITE OR STRUCTURE — Includes any property historic building, site or structure 1) located in a federally, state- or locally designated historic zoning district; or 2) located on a federally, state- or locally designated historic site identified on the Zoning or Official Map; or 3) identified as historic or potentially historic in the Historic Preservation Element of the Master Plan with a documented historic survey filed with the New Jersey State Historic Preservation Office. The Department of Planning and Community Development shall maintain a list of properties deemed to be have historic buildings, sites or structures, and a notation to that effect added to the property record in the Tax Assessor's office.**[Amended 9-26-2023 by Ord. No. O-23-06]**

PARTIAL DEMOLITION and PARTIALLY DEMOLISHED — Any razing, dismantling, destruction, removal, or demolition of less than 50% of the total building, site or structure as calculated by the surface area of any visible facade, exterior wall and/or architectural element, including removal of a building, site or structure, which may or may not include the foundation.**[Added 9-26-2023 by Ord. No. O-23-06]**

PERMIT — Shall have the meaning given in § 347-128.

TOTAL DEMOLITION and TOTALLY DEMOLISHED — This section shall be applicable to the razing, dismantling, destruction, removal, or demolition (collectively referred to as "demolition") of all or substantially all of any historic building, site or structure, including any publicly visible facade, including removal of a building, site or structure from its site, which may or may not include the foundation. "Total demolition," which is subject to this section, is to be distinguished from "demolition" as defined at § 347-128, which is a broader category that includes total demolition. "Substantially all" of a building, site or structure means at least 50% of the exterior walls or publicly visible facade wall, as measured by the exterior surface area of the building, site or structure. Any demolition (partial or total) proposed within five years of a previous demolition permit issuance for the same property will be considered cumulatively with respect to the percentage of exterior walls or facade demolished or removed when determining whether total demolition is sought.**[Amended 9-26-2023 by Ord. No. O-23-06]**

TOTAL DEMOLITION PERMIT — A separate permit distinct from a construction or building permit issued by the Construction Official, specific to enforcement of the Montclair Code zoning provisions concerning historic preservation.

C. Notice to property owners. No later than 90 days after the effective date of this section, and no later than 90 days after this section becomes newly applicable to a property by way of a documented historic survey being filed with the New Jersey State Historic Preservation Office, adoption of an

ordinance by the Township Council designating a new individual landmark property or district, or otherwise, the Township shall notify the owner of each property that as of said date is or contains an historic building, site or structure as defined in § 347-142.1B that said property is subject to the requirements of this section. Notice may be provided by regular mail to the last-known address of the owner of record as found on the Tax Assessor's records. Failure to receive notice shall not relieve the property from compliance with the provisions hereof. **[Amended 9-26-2023 by Ord. No. O-23-06]**

D. Permits for total demolition or removal of historic buildings, sites or structures. **[Amended 9-26-2023 by Ord. No. O-23-06]**

- (1) No historic structure shall be totally demolished unless a total demolition permit has been issued as provided in this article. This article is applicable regardless of whether a demolition permit issued by the Construction Official is required.
- (2) This article applies to all historic structures, including those that would be totally demolished in connection with a development application to the Zoning Board or Planning Board.
- (3) No permit shall be issued by the Construction Official to totally demolish an historic structure unless the proposed total demolition is approved by the administrative officer. Applications to the Building Department to totally demolish an historic structure shall be referred by the administrative officer to the Historic Preservation Commission for review and approval prior to the issuance of a total demolition permit.
- (4) A permit to totally demolish an historic structure where a development application has been filed with the Planning Board or Zoning Board of Adjustment shall not be issued during the pendency of the development application or thereafter unless approved pursuant to the requirements of this article. In the event that the development application is denied, withdrawn or terminated for any reason, the total demolition permit shall not issue until the requirements of this article have been followed and completed.
- (5) An order issued by the Fire Official or the Construction Official to demolish an unsafe structure is exempt from the requirements of this article.

E. Procedure and criteria for total demolition approval. **[Amended 9-26-2023 by Ord. No. O-23-06]**

- (1) Supplementary application. An application, or supplementary application, as the case may be, for approval to totally demolish or remove an historic building, site or structure shall be completed and submitted on a form authorized by the Department of Planning and Community Development in cases where:
 - (a) An application for a total demolition permit for an historic building, site or structure has been submitted to the Construction Official.
 - (b) The administrative officer finds that any other permit application to the Construction Official involves total demolition of an historic building, site or structure as defined herein.
 - (c) An application for development is filed with the Planning Board or the Board of Adjustment that if approved would require the total demolition or removal of an historic building, site or structure.
- (2) Required contents of application for total demolition or removal. The application for total demolition or removal shall include:

- (a) Complete photographic record of all exterior elevations, interior spaces, and details of all existing buildings, sites or structures and any adjacent properties pertinent to the history of the building, site, structure or surrounding neighborhood.
- (b) Statement of the need/purposes for the proposed total demolition or removal.
- (c) Written documentation by a qualified historic preservation architect or other design professional as defined by the Secretary of the Interior of: 1) the estimated cost and timing of restoration or rehabilitation of the building, site or structure so as to allow for its reasonable use; 2) evidence of good-faith offers of the historic building, site or structure for sale at a price that does not exceed its reasonable and comparable value to purchasers willing to remove and relocate the historic building, site or structure, at the purchaser's expense, to another location within the Township and/or to preserve, rehabilitate or restore the building, site or structure, and 3) the time frame for such alternatives to take place. A reasonable and comparable price shall be demonstrated by the applicant by providing evidence such as recent appraisals, comparable sales of buildings similar in location, character, and condition to the building, site or structure proposed to be totally demolished or removed or such other evidence as the Historic Preservation Commission determines to be a reasonable indication of its value. At the request of the applicant, the HPC shall grant a waiver of this requirement upon a finding of good cause, including, but not limited to, instances the property's historic use as a non-profit institution or charitable organization is proposed to continue on-site, or continuous ownership since the period of significance.
- (d) Written and pictorial record of the building's, site's or structure's history and architectural features for archival purposes, including, without limitation, all exterior facades as a whole, a street view with surrounding properties, pictures of all features identified in all historical/architectural surveys of the property on file with the Township, the dates of original construction of the building, site or structure to be totally demolished or removed; original documents, maps, drawings, and photographs; the square footage or dimensions of the building or structure to be totally demolished or removed; a brief description of the materials, configuration and use of the existing building, site or structure; significant events and occupants associated with the history of the building or property who are historically significant; architectural features; and a description of the building, site or structure through photographs, plans, and maps.
- (e) Archaeological study of the land that is the subject of the building, site or structure before and/or during total 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 that are proposed for removal and photographic documentation. The Department of Planning and Community Development will provide applicants with local service directories of centers.
- (g) Cost estimate of the proposed total demolition or removal, categorized by site preparation, abatement, physical demolition work, disposal of materials and any other relevant costs.
- (h) Conceptual, design or other plans for any building or structure proposed or planned by the applicant to replace the historic building, site, or structure sought to be totally demolished or removed, including a design of the replacement building or structure, and a statement of how the replacement structure will affect the character of the neighborhood. At the request of the applicant, the HPC shall grant a waiver of this requirement upon a finding of good cause.

- (3) Review criteria for total demolition. With regard to applications to totally demolish or remove an historic building, site or structure, such application to demolish shall be granted if the applicant demonstrates that: 1) the preservation of the historic building, site or structure is not warranted; or 2) the preservation of the historic building, site or structure would impose an undue burden or hardship on the applicant.
- (a) The first element may be demonstrated by evidence that the building's, site's or structure's historic characteristics do not warrant its preservation, based on the following factors:
- [1] Its historical, architectural, cultural and aesthetic significance.
 - [2] Its use, its intended use and/or the use for which the building, structure 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 or will not be detrimental to the landmark district and/or to the public interest.
 - [4] The extent to which it is of such age, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty and cost.
 - [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 character and ambience of the landmark district.
 - [7] The extent to which the replacement building, site or structure proposed would preserve or not adversely affect the character of the neighborhood.
- (b) The second element may be demonstrated by evidence, in consideration of the following factors, that preservation of the building or structure or denial of the permit would impose an undue burden or hardship upon applicant:
- [1] The condition, structural soundness, and integrity of the historic building, structure or site and the economic feasibility of its restoration or rehabilitation so as to allow for its reasonable use.
 - [2] The threat to the public health and safety as a result of deterioration or disrepair of the historic building, structure or site.
 - [3] The technological feasibility of structural rehabilitation.
 - [4] The interference with the charitable purposes of any nonprofit or charitable organization if total demolition is not permitted.
 - [5] Such other information and evidence regarding the burdens upon applicant of preservation as the Historic Preservation Commission may reasonably request in writing.

- (4) Criteria regarding removal and relocation of historic buildings, sites or structures. An application to move the building, site or structure to a new location shall be granted if the applicant demonstrates that: 1) the preservation of the historic building, site or structure is not warranted under the criteria of Subsection E(4)(a)[1] through [6] above; and, 2) moving the historic building, site or structure is technically feasible and would not pose a substantial negative impact to the site, the present historic district, or the proposed district of relocation.
- (a) The first part is satisfied if, upon consideration of the following factors, the building's, site's or structure's historic characteristics do not warrant its preservation:
- [1] Its historical, architectural, cultural and aesthetic significance.
 - [2] Its use, its intended use and/or the use for which the building, structure 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 age, 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 impact of the loss of integrity suffered as a result of removal from the original and/or historic location; and, if located within an historic district, the impact of that loss of integrity upon the district as a whole.
- (b) The second part is satisfied if, upon consideration of the following factors, moving the building, site or structure is not technically feasible and or would not pose a substantial negative impact to the site, the present district, or the proposed district of relocation:
- [1] The condition, structural soundness, and integrity of the building, site or structure and the economic feasibility of its restoration or rehabilitation so as to allow for its reasonable use at another site in the Township.
 - [2] The interference with the charitable purposes of any nonprofit or charitable organization if relocation is not permitted.
 - [3] The compatibility, nature and character of the areas adjacent to both the present location and the proposed location 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 or sites as set forth in § 347-137C(1) through (12), inclusive.
 - [5] The likelihood of significant damage to the physical integrity of the building, site or

structure itself.

F. Review.

- (1) The Historic Preservation Commission shall review the application for total demolition according to the standards set forth in § 347-137A and § 347-142.1D(2) and (3), and the standards set forth in 36 CFR 60.4, entitled "Criteria for Evaluation" as promulgated by the U.S. Secretary of the Interior, which is adopted and incorporated by reference herein.
- (2) The Historic Preservation Commission may delegate the review of the total demolition application to the Historic Preservation Officer, provided that the Commission by resolution shall adopt or otherwise act upon the Officer's report at a public hearing.
- (3) The Historic Preservation Commission shall report and certify its conclusion to the administrative officer as to whether the subject building or structure possesses cultural, historical or architectural significance which merits its preservation. The Historic Preservation Commission shall present its certification in a written report within 45 days of receipt of a complete application for total demolition. The report shall include, but shall not be limited to: **[Amended 9-26-2023 by Ord. No. O-23-06]**
 - (a) A description of the age (noting if the building, site or structure was constructed more than 50 years ago), architectural style, historical associations and significance of the building, site or structure.
 - (b) Certification that the building, site or structure is historic as defined in this chapter.
 - (c) Certification as to whether the building, site or structure is associated with events that have made a significant contribution to the broad patterns of our local, state, and/or national history.
 - (d) Certification as to whether the building, site or structure was associated with the life of a person who made a significant contribution to local, state and/or national history.
 - (e) Certification as whether the building, site or structure embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic value, or represents a significant and distinguishable entity whose components may lack individual distinction, most especially if no other, or very few, buildings with the same association have survived.
 - (f) Certification as to whether the building, site or structure has yielded, or may be reasonably likely to yield, information important in prehistory or history.
 - (g) Certification as to whether the building, site or structure maintains integrity of:
 - [1] Location: the place where the historic property was constructed or the place where the historic event occurred; and/or
 - [2] Design: the combination of elements that create the form, plan, space, structure, and style of a property; and/or
 - [3] Setting: the physical environment of an historic property; and/or
 - [4] Materials: the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form an historic

property; and/or

- [5] Workmanship: the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory; and/or
- [6] Experience: the property's expression of the historic sense of a particular period of time; and/or
- [7] Association: the property's direct link between an important historic event or person and an historic property.

- (4) The applicant is required to arrange site access to for the Township and the Township's contracted professional consultants, and reviewing commission members as needed in order to complete a complete review as outlined in this section. **[Added 9-26-2023 by Ord. No. O-23-06]**

G. Low-impact applications - expedited process.

- (1) If an application meets the criteria for review under this article but, in the opinion of the Historic Preservation Officer following a review of the historic survey for the property, can be granted without a significant adverse impact on the objectives of historic preservation or on any building, site or structure expressly mentioned or discussed in the historic survey, the Historic Preservation Officer may approve the application. **[Amended 9-26-2023 by Ord. No. O-23-06]**
- (2) If the application is approved by means of this expedited process, the Historic Preservation Officer shall report such approval to the administrative officer.
- (3) The applicant may seek a determination as to whether the application is low-impact by submitting one or more current photographs and basic information about the property on a form provided by the Historic Preservation Officer. If the application is found to be low-impact, no further submission will be required.

H. Findings and decision.

- (1) If, after the consideration of the standards and criteria set forth above, the Historic Preservation Commission concludes that the building or structure possesses no cultural, historical or architectural significance which would merit its preservation, or if the Historic Preservation Commission fails to file its findings with the administrative officer within 45 days of referral, the administrative officer shall approve and the Construction Official may issue a total demolition permit.
- (2) If, after the consideration of the standards and criteria set forth above, the Historic Preservation Commission concludes that the subject building and/or structure possesses sufficient cultural, historical or architectural significance which merits its preservation, and the Historic Preservation Commission files its report within the required forty-five-day period, containing its findings and recommendation against the issuance of the total demolition permit or recommendation that the total demolition permit be issued with conditions, then the administrative officer shall deny issuance of the permit or include the conditions in the permit, as the case may be.
- (3) In cases where the approval of a development application by the Zoning Board or Planning Board would result in the total demolition of an historic structure, issuance of a total demolition permit pursuant to this article shall be included as a condition in the Board's resolution of

approval.

- (4) The applicant for a total demolition permit may appeal the administrative officer's decision to the Zoning Board pursuant to N.J.S.A. 40:55D-70 and 40:55D-70.2. The Historic Preservation Commission, by one or more authorized representatives, shall appear at the appeal hearing and provide testimony as to the basis for the disapproval. Any person aggrieved by the decision of the Zoning Board may appeal to a court of competent jurisdiction as permitted by applicable law.
- (5) In cases of an appeal of the administrative officer's denial of a total demolition permit or imposition of conditions thereon, the Zoning Board may, in its discretion, hear the appeal together with the development application.

I. Notice of hearing [Added 9-26-2023 by Ord. No. O-23-06]

- (1) The applicant for total demolition or for removal and relocation of an historic building, site or structure shall give notice of the date, time and location of the public hearing during which the application is to be heard as follows:
 - (a) Public notice shall be given by publication in the official newspaper of the municipality at least 10 days' prior to the date of the hearing.
 - (b) Notice shall be given to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions of the property which is the subject of such hearing and all adjoining property which is under common ownership and whether located within or without this municipality. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his or her agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his or her address as shown on said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its President, a Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a limited-liability company may be made by service upon any member thereof. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas. The requirement of service shall be satisfied by notice to the condominium association, in the case of any unit owner whose unit is above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it.

§ 347-143. Violations and penalties; enforcement.

A. Violations defined. [Amended 9-26-2023 by Ord. No. O-23-06]

- (1) 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 total or partial demolition, or removal or relocation without approvals required by this article shall be deemed to be in violation hereof.

- (2) If any person shall undertake demolition or removal of any portion of an historic building, site or structure without first having obtained a permit, they shall be required to immediately stop the demolition or removal, apply for approval and take any necessary measures to preserve the affected premises pending such approval. If the permit for demolition is denied, they shall immediately restore the affected premises to its condition prior to any demolition. In the event of a threat of imminent action for which the necessary approvals have not been granted and which action would permanently and adversely change a historic or landmark premises, the Zoning Officer is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.
- 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: **[Amended 9-26-2023 by Ord. No. O-23-06]**
 - (1) For each day up to 10 days: not more than \$750 per day.
 - (2) For each day between 11 and 25 days: not more than \$1,000 per day.
 - (3) For each day beyond 25 days: not more than \$1,250 per day.
 - (4) For each day beyond 25 days: a jail term not to exceed 90 days may be imposed.
 - (5) If a historic building, site or structure subject to the provisions of this article is demolished or removed without first obtaining a demolition permit, the owner shall be afforded a thirty-day period to cure or abate the condition and shall also be afforded an opportunity for a hearing

before a court of competent jurisdiction for an independent determination concerning the violation and penalty. Subsequent to the expiration of the thirty-day period, a fine greater than \$2,000/day may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the cure or abatement has not substantially been completed. If the demolition or removal of the historic building, site or structure has not been or cannot be cured or abated, any application for development for the property on which the historic building, site or structure existed shall obtain a certificate of appropriateness from the Historic Preservation Commission as a mandatory condition of approval.

- (6) A person convicted of a violation of this code may also be subject to any fines and penalties for a violation of any other municipal code or ordinance, or any state or federal law.

§ 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-13-73.²²⁹ **[Added 1-28-2014 by Ord. No. O-13-73]**

229. 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:

Name of Property	Location	Designated as Historic 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
Dittig-Walther House	474 Upper Mountain Avenue, Block 802, Lot 26	Ord. No. 07-14
George S. Porter House	398 Upper Mountain Avenue, Block 706, Lot 33	Ord. No. O-18-010
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
Lawrence Carmichael Earle House	48 Walnut Crescent, Block 4308, Lot 34	Ord. No. O-17-005
Montclair Heights Reformed Church	71 Mt. Hebron Road, Block 2806, Lot 1	Ord. No. O-13-72
Montclair Women's Club	82 Union Street, Block 2108, Lot 4	Ord. No. O-16-006
Mountain Avenue Train Station	451 Upper Mountain Avenue, Block 1801, Lot 54	Ord. No. 07-14
Nathaniel Crane House	110 Orange Road, Block 1304, Lot 12	Ord. No. O-13-28

Name of Property	Location	Designated as Historic Landmark by
Sigler Farm House	109 Alexander Avenue, Block 3802, Lot 20	Ord. No. 07-11
Social Services Building	60 South Fullerton Avenue, Block 2202, Lot 6	Ord. No. O-16-007
Van-Reyner Bond House	848 Valley Road, Block 1005, Lot 8	Ord. No. 07-42
Wachtung Train Station	580 Park Street, Block 3403, Lot 1	Ord. No. 07-14
Welsh House	24 Upper Mountain Avenue, Block 405, Lot 1	Ord. No. 07-14

ARTICLE XXVI

Inclusionary Zoning²³⁰

[Added 4-25-2006 by Ord. No. 05-62; amended 9-22-2009 by Ord. No. O-054-09; 5-22-2018 by Ord. No. O-18-025]

§ 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. [Amended 12-16-2025 by Ord. No. O-25-55; 3-12-2026 by Ord. No. O-26-06]

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

AFFORDABLE — A sales price or rent within the economic means of a low- or moderate-income household, as defined in the UHAC as, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

AFFORDABLE HOUSING TRUST FUND — A separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter. As used in this chapter, "municipal affordable housing trust fund" shall also mean a "municipal development trust fund" and a "municipal development fee trust fund."

AFFORDABLE UNIT — A unit proposed or created pursuant to the Act including units created municipal affordable housing trust funds.

DEVELOPER — The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to 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, 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, N.J.S.A. 40:55D-1 et seq.

ELIGIBLE HOUSEHOLD — Any household whose total income does not exceed the designated percentage of the median income for households as determined in accordance with applicable state and federal regulations and guidelines, or which meets the criteria established for a municipal housing program pursuant to Montclair Code § 65-3.

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

HOUSING PROJECT — A project, or distinct portion of a project, which is designed and intended to provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of

230. Editor's Note: See also Ch. 65, Affordable Housing.

low- and moderate-income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

INCLUSIONARY DEVELOPMENT — A residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

PAYMENT IN LIEU OF CONSTRUCTING AFFORDABLE UNITS — The payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development.

SUPPORTIVE HOUSING — A dwelling unit that is reserved for individuals and families with special needs, such as those who have disabilities or are unhoused, and who shall occupy such housing as their usual and permanent residence, combined with flexible support services tailored to the individual's needs.

§ 347-153. Scope. [Amended 12-16-2025 by Ord. No. O-25-55]

- A. To ensure the sufficient use of land to create realistic opportunities for the construction of affordable housing, this article shall apply to all residential development, including mixed-use development.
- 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. This article may be superseded in areas in need of redevelopment or rehabilitation by a redevelopment plan duly adopted pursuant to N.J.S.A. 40A:12A-1 et seq.

§ 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. Applicability. [Amended 3-12-2026 by Ord. No. O-26-06]

- 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 except that any development that is approved through a use variance, per N.J.S.A. 40:55D-70d, and containing four or more dwelling units, shall include at least 25% or one in four of the total number of units within the development as affordable units.
- B. All affordable units created through this inclusionary zoning ordinance shall be developed in accordance with the requirements set forth in Montclair Code Chapter 65, Affordable Housing.
- C. At least 15% of new affordable units created through this inclusionary zoning ordinance shall be permanent supportive housing. When calculating this number, percentages of 0.5% and above shall be rounded up and percentages of below 0.5% shall be rounded down. Occupants of these units shall be drawn from a separate waiting list maintained by the Township and shall include any ADA improvements required by the anticipated occupant.
- D. When the total number of affordable units in the development as required in § 347-156A 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 and no use variance is required, 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 (0.6). If the eight units involve a use variance, then two affordable units will be required on-site.

§ 347-157. Design and construction of affordable units. [Amended 6-1-2021 by Ord. No. O-21-09]

Affordable units provided on-site shall be reasonably dispersed throughout the development and shall be designed and constructed to be substantially similar in size and quality as on-site market units unless specifically permitted otherwise by the approving Board. All affordable units shall comply with applicable 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. 5:94-4.4,²³¹ N.J.A.C. 5:80-26.1, or any other applicable rules or programs.

§ 347-157.1. Affordability controls. [Added 12-16-2025 by Ord. No. O-25-55]

- A. All affordable units shall be subject to affordability controls to ensure the maintenance of housing that is affordable to low- and moderate-income households for a period of not less than 40 years for newly created rental units, 30 years for for-sale units, and 30 years for housing units for which affordability controls are extended for a new term of affordability, provided that the minimum extension term may be limited to no less than 20 years as long as the original and extended terms, in combination, total at least 60 years.
- B. Any 100% affordable rental property shall have a right to extinguish a deed restriction regardless of original length, beginning 30 years following the start of the deed restriction, provided a refinancing or rehabilitation, or both, for the purpose of preservation is commenced and that a new deed

231. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 94, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning December 20, 2004, expired on 9-11-2016.

restriction of at least 30 years is provided.

§ 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. [Amended 6-1-2021 by Ord. No. O-21-09; 12-16-2025 by Ord. No. O-25-55]

Whenever this article permits a cash-in-lieu contribution, the contribution shall be calculated based on the amount of the subsidy necessary to make one housing unit affordable for municipalities in Montclair's region. The Township Council determines the required subsidy is \$250,000 (as of 2025). The subsidy amount shall be updated annually based on changes in construction costs, as measured by the RS Means Construction Cost Index. The subsidy amount shall be calculated annually by the Municipal Housing Liaison and posted to the Township website.

§ 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 option. 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 or any other applicable rules, guidelines, or programs.
- 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 or any other applicable rules, guidelines, or programs.

§ 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 or any other applicable rules, guidelines, or programs.
- 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, 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 article;
 - (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.

Appendix

Chapter A351**CABLE TELEVISION FRANCHISE**

[HISTORY: Adopted by the Council of the Township of Montclair 10-7-2008 by Ord. No. 08-34.²³² Amendments noted where applicable.]

§ A351-1. Purpose.

The Township of Montclair (hereinafter the Municipality or the Township) hereby grants to Comcast of New Jersey II, LLC renewal of its nonexclusive municipal consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the municipality of a cable television and communications system.

§ A351-2. Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. § 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

ACT or CABLE TELEVISION ACT — Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1 et seq.

APPLICATION — The company's application for renewal of municipal consent.

BASIC CABLE SERVICE — Any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.

BOARD or BPU — The Board of Public Utilities, State of New Jersey.

COMPANY — Comcast of New Jersey II, LLC, the grantee of rights under this ordinance.

FCC — The Federal Communications Commission.

OFFICE or OCTV — The Office of Cable Television of the Board.

PRIMARY SERVICE AREA or PSA — The area of the municipality currently served with existing plant as set forth in the map annexed to the company's application for municipal consent.

TOWNSHIP or MUNICIPALITY — The Township of Montclair in the County of Essex, State of New Jersey.

§ A351-3. Statement of findings.

Public hearings were conducted by the municipality, concerning the renewal of municipal consent herein granted to the company, after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings were fully open to the public and the municipality received and considered during said hearings all comments regarding the qualifications of the company to receive this renewal of municipal consent. The municipality hereby finds that the company

232.Editor's Note: This ordinance also superseded former Ch. A351, Cable Television Franchise, adopted 5-26-1998 by Ord. No. 98-21.

possesses the necessary legal, technical, character, financial and other qualifications and that the company's operating and construction arrangements are adequate and feasible.

§ A351-4. Duration of franchise.

- A. The nonexclusive municipal consent granted pursuant to this ordinance shall expire 15 years from the date of expiration of the previous certificate of approval issued to the company by the Board.
- B. In the event that the municipality determines that the company has not substantially complied with the material terms and conditions of this ordinance, the municipality shall have the right, pursuant to N.J.S.A. 48:5A-47, to petition the OCTV for appropriate action, including modification and/or termination of the certificate of approval; provided, however, that the municipality shall have given the company prior written notice of the company's alleged failure to comply with the terms and conditions of this ordinance and the company has not cured same within 45 days of delivery of said notice.

§ A351-5. Franchise fee.

Pursuant to the terms and conditions of the Act, the company shall, during each year of operation under the consent granted herein, pay to the municipality franchise fees equal to the greater of:

- A. Two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the municipality; or
- B. The amount permitted or required by the Act or other applicable legal requirements, including, but not limited to, the New Jersey systemwide cable franchising law.

§ A351-6. Franchise territory.

The consent granted under this ordinance to the renewal of the franchise shall apply to the entirety of the municipality and any property subsequently annexed hereto.

§ A351-7. Extension of service.

- A. The company shall be required to proffer service to any residence or business along any public right-of-way in the primary service area, as set forth in the company's application. The company's line extension policy, as set forth in the company's application, shall govern any extension of plant beyond the primary service area.
- B. Comcast will comply with all applicable laws, rules and regulations governing the operation of its cable television system and cable communications system within the Township. If any laws, rules or regulations are declared unlawful by a court of competent jurisdiction or superseded by a duly-enacted state or federal statute or regulation, Comcast will not be bound by such regulation, nor will the company be bound by any provision of this ordinance or the renewal certificate of approval which is declared unlawful by a court of competent jurisdiction or which is superseded by a duly-enacted state or federal statute or regulation. The Township and the company reserve the right to seek administrative or judicial review of the validity of any statute, regulation or ordinance.

§ A351-8. Construction requirements.

- A. Restoration. In the event that the company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the company shall, at its sole

expense, restore and replace such places or things so disturbed to a condition equal to or better than the condition existing prior to the commencement of said work.

- B. Relocation. If at any time during the period of this consent, the municipality shall alter or change the grade of any street, alley or other way or place, the company, upon reasonable notice by the municipality, shall remove, relay or relocate its equipment at the expense of the company.
- C. Removal or trimming of trees. In the exercise of its rights and privileges under this franchise, the company shall have the authority, upon at least seven days' prior written notice to the Township, except in cases of emergency, to reasonably trim trees located upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the company. Such trimming shall be performed to the minimum extent necessary to maintain proper clearance of the company's wire and cables.

§ A351-9. Customer service.

- A. In providing services to its customers, the company shall comply with N.J.A.C. 14:18-1 et seq. and all other applicable state and federal statutes and regulations. The company shall strive to meet or exceed all company and industry standards in the delivery of customer service, and the company shall provide annual written reports to the Township regarding its customer service, including a description of all written complaints received from the company's subscribers in the Township and the company's resolution of such complaints.
- B. The company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- C. The company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- D. The company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- E. Nothing herein shall impair the right of any subscriber or the municipality to express any comment with respect to telephone accessibility to the complaint officer, or impair the right of the complaint officer to take any action that is permitted under law.
- F. In addition to the requirements of Subsection A above, the company shall, upon the Township's reasonable request, provide interim customer service reports to the Township, but not more than once every four months, and the company will meet with the Township Council or other designated Township officials to review any customer service issues or other concerns within 30 days of written request from the Township or the Township Manager.

§ A351-10. Municipal complaint officer.

The Office of Cable Television in the Board of Public Utilities is hereby designed as the complaint officer for the municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The municipality shall have the right to request copies of records and reports pertaining to complaints by municipality subscribers from the OCTV.

§ A351-11. Local office.

During the term of this franchise, and any renewal thereof, the company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such business office shall have a publicly listed toll-free telephone number and be open during standard business hours, but in no event (excepting for emergent circumstances) less than 9:00 a.m. to 5:00 p.m., Monday through Friday.

§ A351-12. Performance bonds.

During the life of the franchise, the company shall maintain and deliver to the municipality a performance bond in the amount of \$25,000. Such bond shall be to insure the faithful performance of all undertakings of the company as represented in its application for municipal consent incorporated herein.

§ A351-13. Subscriber rates.

The rates of the company shall be subject to regulation as permitted by federal and state law.

§ A351-14. Public, educational and governmental access.

- A. The company shall continue to provide a system-wide public access channel maintained by the company. Qualified individuals and organizations may utilize public access for the purpose of cablecasting noncommercial access programming in conformance with the company's published public access rules.
- B. The company shall continue to provide a system-wide leased access channel maintained by the company for the purpose of cablecasting commercial access programming in conformance with the company's guideline and applicable state and federal statutes and regulations.
- C. The company shall continue to provide the Township with a dedicated local (governmental) access channel maintained by the company for use by the Township or its designee for the purpose of cablecasting noncommercial access programming in conformance with the Township's guidelines and applicable state and federal statutes and regulations.
- D. The company shall take any steps that are necessary to ensure that the signals originated on the all access channels are carried without material degradation, and with a signal whose quality is equal to or better than that of the other standard channels that the company transmits.

§ A351-15. Commitments by company.

- A. The company shall continue to provide standard installation and basic cable television service on one outlet, and all other authorized existing outlets, at no cost, to each school in the municipality, public and private, elementary, intermediate and secondary. In addition, the company shall provide additional outlets, provided that the additional outlets are located in a school located within 200 feet of an active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall also be waived on all such additional outlets. Conversion of noncompany authorized outlets to company standards, including wiring, equipment and installation charges, shall be paid by the affected location, entity or school.
- B. The company shall continue to provide standard installation and basic cable television service at no

cost on one outlet each, and on all other company authorized existing outlets, at each police, fire, emergency management facility and public library in the municipality. In addition, the company shall provide additional outlets to police, fire, emergency management facility and public libraries in the municipality, provided that the additional outlets are located in a facility located within 200 feet of an active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the municipality. Monthly service charges shall also be waived on all such additional outlets. Conversion of noncompany authorized outlets to company standards, including wiring, equipment and installation charges, shall be paid by the municipality.

- C. The company shall continue to provide one free nonnetworked high-speed Internet connection and service (one outlet at each location) at all public library buildings and all public and private schools. Connections are to be located in areas accessible to student and community use, and cannot be restricted to administrative use. All facilities must be located within 200 feet of active cable plant.
- D. The company shall continue to provide and maintain existing local access returns at the Montclair Municipal Building, presently located at 205 Claremont Avenue, and to Montclair High School located at 100 Chestnut Street.
- E. The company shall provide an additional fiber optic local access return with transmitter, receiver and monitor outlet (monitor not provided by company) at a location designated by the Township within one year of the Township's written request. The location of said return must be within 200 feet of an active cable plant.
- F. Within three months after the issuance of a renewal certificate of approval (COA) by the OCTV, the company shall provide to the municipality a one-time grant in the amount of \$90,000 for local access-related and communication needs.
- G. The company shall continue to make available to the Township, on an availability and scheduled basis, a mobile production vehicle for the purpose of producing noncommercial community governmental or educational access programming, consistent with the company's written rules and regulations governing the use of said vehicle. The company shall provide basic training to users of the production vehicle and will provide other technical assistance and training upon written request for local residents for the purpose of producing PEG access programming, to the same extent and on the same terms as the company offers such technical assistance and training to other municipalities.
- H. The company shall provide the Township with a second dedicated digital local (governmental) access channel and return, for use by the Township or its designee, if and when the Township demonstrates that programming on the Township's original local access channel has reached 20 hours of unduplicated original programming per week for a period of 13 consecutive weeks (the demonstration period), exclusive of regularly scheduled statutory meetings of official municipal bodies, i.e., the Township Council, Planning Board, Zoning Board of Adjustment and Board of Education. The second digital local access channel shall be completed and operational within one year after the end of the demonstration period. Origination of the channel must be within 200 feet of active cable plant. Upon request of the Township, and at the Township's option, the second dedicated access channel may be transferred or converted to a public (P) access channel.
- I. The company shall provide an additional grant of \$75,000 in support of cable-related and communications programs, or as otherwise determined by the Township, which grant shall be payable in 15 annual installments, in the amount of \$5,000 per year, with the first payment due on March 1, 2009, and each additional payment due on March 1 of each succeeding year. This grant shall be payable by the company regardless of whether the franchise granted pursuant to this ordinance is cancelled or terminated, by agreement or otherwise, or whether the franchise is superseded or

nullified by virtue of any law, rule or regulation enacted subsequent to the date of this ordinance or by any other act or event which occurs after the date of this ordinance.

- J. The company will provide no cost digital video monitor service and installation at access origination site(s) and future origination sites, if any.

§ A351-16. Emergency uses.

- A. The company will comply with the Emergency Alert System (EAS) rules in accordance with applicable state and federal statutes and regulations.
- B. The company shall in no way be held liable for any injury suffered by the municipality or any person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

§ A351-17. Liability insurance.

The company shall at all times maintain a comprehensive general liability insurance policy with a single-limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (umbrella) policy in the amount of \$5,000,000.

§ A351-18. Incorporation of application.

All of the statements and commitments contained in the application or annexed thereto and incorporated therein, and any amendments thereto, except as modified herein, are binding upon the company as terms and conditions of this consent. The application and other relevant writings submitted by the company shall be annexed hereto and made a part hereof by reference, provided, same do not conflict with applicable state or federal law.

§ A351-19. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the ordinance.

§ A351-20. Third-party beneficiaries.

Nothing in this ordinance or in any prior agreement is or intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or ordinance.

§ A351-21. Effective date.

This ordinance shall take effect upon final adoption and immediately upon issuance of a renewal certificate of approval by the BPU.

Disposition List

Chapter DL**DISPOSITION LIST**

[The following is a chronological listing of legislation of the Township of Montclair adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion.

[Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Municipal Clerk. The last legislation reviewed for the publication of the Code was Ord. No. 99-2, adopted 2-23-1999. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Municipal Clerk.]

§ DL-1. Disposition of legislation.

Enact- ment	Adoption Date	Subject	Disposition
99-3	4-6-1999	Drug-free public facilities zones	Ch. 130, Art. I
99-4	4-6-1999	Bond	NCM
99-5	4-6-1999	Bond	NCM
99-6	4-6-1999	Bond	NCM
99-7	4-6-1999	Bond	NCM
99-8	4-6-1999	Bond	NCM
99-9	4-6-1999	Bond	NCM
99-10	4-20-1999	Bond	NCM
99-11	4-20-1999	Salaries	NCM
99-12	5-4-1999	Bond	NCM
99-13	6-22-1999	Zoning Map amendment	NCM
99-14	7-20-1999	Bond	NCM
99-15	7-20-1999	Salaries	NCM
99-16	10-19-1999	Salaries	NCM
99-17	10-19-1999	Salaries	NCM
99-18	10-19-1999	Salaries	NCM
99-19	10-19-1999	Redevelopment plan amendment	NCM
99-20	10-19-1999	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
99-21	10-19-1999	Firearms and weapons amendment	Ch. 144
99-22	11-9-1999	Salaries	NCM
99-23	11-9-1999	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
99-24	11-23-1999	Bond	NCM
99-25	11-23-1999	Parking lots: parking permits amendment	Ch. 230, Art. I
99-26	11-23-1999	Salaries	NCM
99-27	12-14-1999	Disorderly conduct amendment	Ch. 127
99-28	12-21-1999	Salaries	NCM
99-29	12-21-1999	Salaries	NCM
99-30	12-21-1999	Salaries	NCM
99-31	12-21-1999	Salaries	NCM
00-01		Salaries	Withdrawn
00-02	2-1-2000	Noise amendment	Ch. 217
00-03	2-1-2000	Redevelopment plan	NCM
00-04	2-1-2000	Zoning Map amendment	NCM
00-05	2-1-2000	Civil Rights Commission amendment	Ch. 11
00-06	3-7-2000	Bond	CM
00-07	3-21-2000	Vehicles and traffic amendment	Ch. 327
00-08	3-28-2000	Political fundraising	Ch. 163
00-09	4-18-2000	Bond	NCM
00-10	4-18-2000	Bond	NCM
00-11	4-18-2000	Bond	NCM
00-12	4-18-2000	Bond	NCM
00-13	4-18-2000	Bond	NCM
00-14	4-18-2000	Bond	NCM
00-15	4-18-2000	Acquisition of land	NCM
00-16	4-18-2000	Bond	NCM
00-17	5-2-2000	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
00-18	5-23-2000	Nuisances	Ch. 218
00-19	5-23-2000	Adoption of Code	Ch. 1, Art. I
00-20	5-23-2000	Vehicles and traffic	Ch. 327
00-21	5-23-2000	Bond	NCM
00-22	5-23-2000	Bond	NCM
00-24	5-23-2000	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
00-25	5-23-2000	Bond	NCM
00-26	5-23-2000	Bond	NCM
00-27	5-23-2000	Bond	NCM
00-28	5-23-2000	Bond	NCM
00-29	6-13-2000	Bond	NCM
00-30	6-13-2000	Street vacation	NCM
00-31	6-13-2000	Street vacation	NCM
00-32	6-27-2000	Salaries	NCM
00-33	6-27-2000	Salaries	NCM
00-34	6-27-2000	Salaries	NCM
00-35	6-27-2000	Salaries	NCM
00-36	6-27-2000	Salaries	NCM
00-37	6-27-2000	Salaries	NCM
00-38	6-27-2000	Salaries	NCM
00-39	6-27-2000	Salaries	NCM
00-40	6-27-2000	Salaries	NCM
00-41	6-27-2000	Salaries	NCM
00-42	6-27-2000	Salaries	NCM
00-43	6-27-2000	Director of Public Safety	Expired
00-44	7-25-2000	Salaries	NCM
00-45	7-25-2000	Zoning amendment	Ch. 347
00-46	9-19-2000	Uniform construction codes amendment	Ch. 121
00-47	9-19-2000	Salaries	NCM
00-48	9-19-2000	Salaries	NCM
00-49	9-19-2000	Salaries	NCM
00-50	9-19-2000	Salaries	NCM
00-51	10-10-2000	Redevelopment plan	NCM
00-52	11-28-2000	Parking permits amendment	Ch. 230, Art. I
00-53	11-28-2000	Salaries	NCM
00-54	12-12-2000	Street acceptance	NCM
00-55	12-26-2000	Salaries	NCM
00-56	12-26-2000	Salaries	NCM
00-57	12-26-2000	Salaries	NCM

Enact- ment	Adoption Date	Subject	Disposition
00-58	12-26-2000	Salaries	NCM
00-59	12-26-2000	Salaries	NCM
00-60	12-26-2000	Salaries	NCM
00-61	12-26-2000	Salaries	NCM
00-62	12-26-2000	Salaries	NCM
00-63	12-26-2000	Salaries	NCM
00-64	12-26-2000	Redevelopment plan	NCM
00-65			Not adopted
00-66	1-16-2001	Vehicles and traffic amendment	Ch. 327
01-01	3-13-2001	Zoning Map amendment	NCM
01-02	1-30-2001	Vehicles and traffic amendment	Ch. 327
01-03	1-30-2001	Private sale of land	NCM
01-04	2-13-2001	Vehicles and traffic amendment	Repealed by Ord. No. 07-57
01-05	2-13-2001	Bond	NCM
01-06	2-13-2001	Salaries	NCM
01-07	2-13-2001	Salaries	NCM
01-08	2-13-2001	Solid waste amendment	Ch. 292, Arts. II, III and IV
01-09	2-27-2001	Bond	NCM
01-10	2-27-2001	Fire prevention amendment	Ch. 153
01-11	4-10-2001	Bond	NCM
01-12	4-10-2001	Bond	NCM
01-13	4-10-2001	Filming amendment	Ch. 140
01-14	4-10-2001	Vehicles and traffic amendment	Ch. 327
01-15	4-10-2001	Maintenance responsibility for certain roads	Ch. 297, Art. VII
01-16	4-24-2001	Salaries	NCM
01-17	4-24-2001	Taxicabs and liveries amendment	Ch. 313
01-18	4-24-2001	Vehicles and traffic amendment	Ch. 327
01-19	4-24-2001	Bond	NCM
01-20	4-24-2001	Bond	NCM
01-21	4-24-2001	Bond	NCM
01-22	4-24-2001	Bond	NCM
01-23	4-24-2001	Bond	NCM
01-24	4-24-2001	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
01-25	4-24-2001	Bond	NCM
01-26	4-24-2001	Salaries	NCM
01-27	4-24-2001	Salaries	NCM
01-28	4-24-2001	Salaries	NCM
01-29	4-24-2001	Salaries	NCM
01-30	4-24-2001	Vehicles and traffic amendment	Ch. 327
01-31	4-24-2001	Vehicles and traffic amendment	Ch. 327
01-32	5-8-2001	Court amendment	Ch. 20
01-33	5-8-2001	Auctioneers amendment	Ch. 86
01-34	5-8-2001	Vehicles and traffic amendment	Ch. 327
01-35	5-22-2001	Fire prevention amendment	Ch. 153
01-36	5-22-2001	Bond	NCM
01-37	7-10-2001	Salaries	NCM
01-38	7-10-2001	Salaries	NCM
01-39	8-7-2001	Solid waste amendment	Ch. 292
01-40	8-7-2001	Bond	NCM
01-41	8-7-2001	Redevelopment plan amendment	NCM
01-42			Tabled
01-43	9-25-2001	Land use procedures amendment	Ch. 202
01-44	9-25-2001	Domestic Violence Intervention Team	Ch. 52
01-45	9-25-2001	Redevelopment plan II	NCM
01-46	10-30-2001	Land use procedures amendment	Ch. 202
01-47	11-12-2001	Salaries	NCM
01-48	11-12-2001	Parking lots: parking permits amendment	Ch. 230, Art. I
01-49	11-27-2001	Vehicles and traffic amendment	Ch. 327
01-50	11-27-2001	Vehicles and traffic amendment	Ch. 327
01-51	11-27-2001	Vehicles and traffic amendment	Ch. 327
01-52	12-27-2001	Vehicles and traffic amendment	Ch. 327
01-53	12-27-2001	Vehicles and traffic amendment	Ch. 327
01-54	12-27-2001	Property maintenance amendment	Ch. 247
01-55	1-8-2002	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
02-01	1-22-2002	Vehicles and traffic amendment	Ch. 327
02-02	2-5-2002	Bond	NCM
02-03	2-5-2002	Mutual assistance	Ch. 40
02-04	2-19-2002	Montclair Center Special Improvement District	Ch. 293, Art. I
02-05	3-5-2002	Vehicles and traffic amendment	Ch. 327
02-06	3-5-2002	Redevelopment plan	NCM
02-07	4-16-2002	Bond	NCM
02-08	4-2-2002	Bond	NCM
02-09	4-16-2002	Bond	NCM
02-10	4-16-2002	Bond	NCM
02-11	4-16-2002	Bond	NCM
02-12	4-16-2002	Redevelopment plan amendment	NCM
02-13	4-16-2002	Redevelopment plan	NCM
02-14	5-7-2002	Street vacation	NCM
02-15	5-21-2002	Acquisition of property	NCM
02-16	6-11-2002	Special improvement district Schedule A amendment	NCM
02-17	6-11-2002	Vehicles and traffic amendment	Ch. 327
02-18	6-11-2002	Vehicles and traffic amendment	Ch. 327
02-19	6-11-2002	Vehicles and traffic amendment	Ch. 327
02-20	6-11-2002	Vehicles and traffic amendment	Ch. 327
02-21	6-11-2002	Vehicles and traffic amendment	Ch. 327
02-22	6-11-2002	Vehicles and traffic amendment	Ch. 327
02-23	6-25-2002	Bond	NCM
02-24	6-25-2002	Bond	NCM
02-25	6-25-2002	Bond	NCM
02-26	6-25-2002	Bond	NCM
02-27	6-25-2002	Bond	NCM
02-28	6-25-2002	Bond	NCM
02-29	6-25-2002	Vehicles and traffic amendment	Ch. 327
02-30			Withdrawn
02-31	7-23-2002	Street vacation	NCM
02-32	7-23-2002	Salaries and compensation	NCM

Enact- ment	Adoption Date	Subject	Disposition
02-33		Bond	NCM
02-34		Bond	NCM
02-35	8-20-2002	Vehicles and traffic amendment	Ch. 327
02-36	8-20-2002	Vehicles and traffic amendment	Ch. 327
02-37	8-20-2002	Vehicles and traffic amendment	Ch. 327
02-38	9-3-2002	Zoning amendment	Ch. 347
02-39		Bond	NCM
02-40		Bond	NCM
02-41		Bond	NCM
02-42			Withdrawn
02-43	10-8-2002	Land use procedures amendment	Ch. 202
02-44	9-17-2002	Zoning amendment	Ch. 347
02-45	11-12-2002	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
02-46	11-12-2002	Salaries and compensation amendment	NCM
02-47	11-12-2002	Salaries and compensation amendment	NCM
02-48	11-12-2002	Vehicles and traffic amendment	Ch. 327
02-49	11-12-2002	Vehicles and traffic amendment	Ch. 327
02-50	11-12-2002	Vehicles and traffic amendment	Ch. 327
02-51	11-12-2002	Parking Authority	Repealed by Ord. No. O-12-50
02-52	11-26-2002	Zoning amendment	Ch. 347
02-53	11-26-2002	Awnings, canopies and marquees amendment	Ch. 297, Art. V
02-54	11-26-2002	Salaries	NCM
02-55	12-10-2002	Shuttle bus service	Ch. 274
02-56	12-10-2002	Bond	NCM
02-57	12-10-2002	Bond	NCM
02-58	12-10-2002	Bond	NCM
02-59	12-10-2002	Bond	NCM
02-60	12-10-2002	Guaranty of Parking Authority bonds	NCM
02-61	12-30-2002	Salaries	NCM

Enact- ment	Adoption Date	Subject	Disposition
02-62	12-30-2002	Salaries	NCM
02-63	12-30-2002	Salaries	NCM
02-64	12-30-2002	Parking permits amendment	Ch. 230, Art. I
03-1	2-4-2003	Vehicles and traffic amendment	Ch. 327
03-2	2-4-2003	Vehicles and traffic amendment	Ch. 327
03-3	2-4-2003	Vehicles and traffic amendment	Ch. 327
03-4	2-4-2003	Vehicles and traffic amendment	Ch. 327
03-5	2-4-2003	Salaries	NCM
03-6	3-4-2003	Redevelopment plan	NCM
03-7	3-4-2003	Development fees amendment	Ch. 202
03-8	3-11-2003	Bond	NCM
03-9	3-11-2003	Bond	NCM
03-10	3-11-2003	Bond	NCM
03-11	3-11-2003	Bond	NCM
03-12	3-11-2003	Bond	NCM
03-13	3-11-2003	Bond	NCM
03-14	3-11-2003	Water rates amendment	Ch. 341
03-15	3-11-2003	Salaries	NCM
03-16	3-11-2003	Salaries	NCM
03-17	3-18-2003	Noise amendment	Ch. 217
03-18	3-18-2003	Water rates amendment	Ch. 341
03-19	3-18-2003	Parking Authority: intralocal agreement	Repealed by Ord. No. O-12-50
03-20	3-18-2003	Parking Authority amendment	Ch. 46
03-21	4-8-2003	Special Improvement District Exhibit A amendment	NCM
03-22	4-8-2003	Vehicles and traffic amendment	Ch. 327
03-23	4-8-2003	Vehicles and traffic amendment	Ch. 327
03-24	4-8-2003	Vehicles and traffic amendment	Ch. 327
03-25	4-8-2003	Salaries	NCM
03-26	4-8-2003	Salaries	NCM
03-27	4-22-2003	Vehicles and traffic amendment	Ch. 327
03-28			Withdrawn
03-29	5-20-2003	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
03-30	4-22-2003	Bond	NCM
03-31	6-24-2003	Budget cap	NCM
03-32	5-20-2003	Bond	NCM
03-33	6-10-2003	Parking permits amendment	Ch. 230, Art. I
03-34	6-10-2003	Salaries	NCM
03-35	6-10-2003	Vehicles and traffic amendment	Ch. 327
03-36	6-10-2003	Vehicles and traffic amendment	Ch. 327
03-37	6-10-2003	Fire prevention amendment	Ch. 153
03-38	6-10-2003	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
03-39	6-10-2003	Salaries	NCM
03-40	6-10-2003	Salaries	NCM
03-41	7-22-2003	Bond	NCM
03-42	7-22-2003	Bond	NCM
03-43	7-22-2003	Bond	NCM
03-44	7-22-2003	Bond	NCM
03-45	7-22-2003	Bond	NCM
03-46	7-22-2003	Bond	NCM
03-47	8-19-2003	Zoning Map amendment	NCM
03-48	8-19-2003	Pine Street redevelopment plan	NCM
03-49	8-19-2003	Hahne redevelopment plan amendment	NCM
03-50	8-19-2003	Bond	NCM
03-51	8-19-2003	Solid waste amendment	Ch. 292, Art. IV
03-52	9-9-2003	Parking lots permit fees amendment	Ch. 230
03-53	9-9-2003	Alcoholic beverages license fees amendment	Ch. 74
03-54 to 03-59			Tabled
03-60	9-23-2003	Vehicles and traffic amendment	Ch. 327
03-61 to 03-62			Tabled
03-63	9-23-2003	Vehicles and traffic amendment	Ch. 327
03-64	9-9-2003	Parking lots amendment	Ch. 230
03-65	9-9-2003	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
03-66	9-9-2003	Vehicles and traffic amendment	Ch. 327
03-67	10-14-2003	Skateboards amendment	Ch. 285
03-68	10-28-2003	Salaries	NCM
03-69	10-14-2003	Vehicles and traffic amendment	Ch. 327
03-70	11-10-2003	Salaries	NCM
03-71	11-10-2003	Salaries	NCM
03-72	11-10-2003	Corrugated cardboard amendment	Ch. 292, Art. III
03-73	12-9-2003	Vehicles and traffic amendment	Ch. 327
03-74	12-9-2003	Vehicles and traffic amendment	Ch. 327
03-75	12-9-2003	Vehicles and traffic amendment	Ch. 327
03-76	12-9-2003	Vehicles and traffic amendment	Ch. 327
03-77	12-9-2003	Obscene material	Ch. 220
03-78	12-9-2003	Salaries	NCM
03-79	12-30-2003	Salaries	NCM
03-80	12-30-2003	Salaries	NCM
03-81	12-30-2003	Salaries	NCM
03-82	12-30-2003	Salaries	NCM
03-83	12-30-2003	Salaries	NCM
03-84	12-30-2003	Salaries	NCM
03-85	12-30-2003	Salaries	NCM
04-01		Bond	NCM
04-02		Bond	NCM
04-03		Bond	NCM
04-04	3-2-2004	Fees amendment	Ch. 136
04-05	3-2-2004	Taxation: exemption and abatement agreements	Ch. 309, Art. IV
04-06		Bond	NCM
04-07		Bond	NCM
04-08		Bond	NCM
04-09		Bond	NCM
04-10		Bond	NCM
04-11	3-30-2004	Vehicles and traffic amendment	Ch. 327
04-12	3-30-2004	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
04-13	4-13-2004	Water rates amendment	Ch. 341
04-14	4-20-2004	Bond	NCM
04-15	4-20-2004	Bond	NCM
04-16			TABLED
04-17	4-20-2004	Vehicles and traffic amendment	Ch. 327
04-18	4-20-2004	Special improvement district Schedule A amendment	NCM
04-19	4-20-2004	Tobacco products amendment	Ch. 320
04-20	4-20-2004	Bond	NCM
04-21	5-4-2004	Bond	NCM
04-22	5-4-2004	Bond	NCM
04-23	5-4-2004	Vehicles and traffic amendment	Ch. 327
04-24	5-4-2004	Parking amendment temporary	NCM
04-25	5-4-2004	Parking amendment temporary	NCM
04-26	6-15-2004	Salary	NCM
04-27 - 04-32	6-1-2004	Salary	NCM
04-33	6-15-2004	Administration of government amendment	Ch. 3
04-34	6-15-2004	Government department name changes throughout Code	Chs. 7, 48, 104, 186, 200, 222, 230, 269, 276, 292, 297, 301, 317, 327, 234
04-35	6-15-2004	Bond	NCM
04-36	6-15-2004	Redevelopment Plan amendment	NCM
04-37			Withdrawn
04-38	7-27-2004	Vehicles and traffic amendment	Ch. 327
04-39	7-27-2004	Vehicles and traffic amendment	Ch. 327
04-40			Not adopted
04-41	8-10-2004	Salaries	NCM
04-42	8-10-2004	Salaries	NCM
04-43	8-10-2004	Salaries	NCM
04-44	8-10-2004	Salaries	NCM
04-45	8-10-2004	Bond	NCM
04-46	8-10-2004	Bond	NCM
04-47	8-10-2004	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
04-48	8-10-2004	Bond	NCM
04-49	8-10-2004	Bond	NCM
04-50	8-10-2004	Bond	NCM
04-51	8-10-2004	Redevelopment plan amendment	NCM
04-52	9-7-2004	Street vacation	NCM
04-53			Not adopted
04-54	10-5-2004	Employee parking: Montclair High School	Ch. 228
04-55	11-9-2004	Salaries	NCM
04-56	11-9-2004	Salaries	NCM
04-57	11-9-2004	Salaries	NCM
04-58	11-15-2004	Salaries	NCM
04-59	11-15-2004	Salaries	NCM
04-60	11-15-2004	Salaries	NCM
04-61	11-23-2004	Vehicles and traffic amendment	NCM (temporary restriction)
04-62	11-23-2004	Vehicles and traffic amendment	NCM (temporary restriction)
04-63			Withdrawn
04-64			Withdrawn
04-65			Withdrawn
04-66	12-14-2004	Vehicles and traffic amendment	Ch. 327
04-67	12-28-2004	Housing Commission	Ch. 29
04-68			Postponed
04-69	1-25-2005	Employee parking: Montclair High School	Ch. 228
04-70	1-25-2005	Employee parking: two-hour limits	Ch. 228
04-71	1-25-2005	Employee parking: 4-hour limits	Ch. 228
04-72	12-28-2004	Tax abatement	NCM
04-73	1-25-2005	Vehicles and traffic amendment	Ch. 327
04-74	1-11-2005	Salaries	NCM
04-75	1-11-2005	Salaries	NCM
05-01	1-25-2005	Salaries	NCM
05-02	2-8-2005	Zoning Map amendment	NCM
05-03	2-8-2005	Zoning Map amendment	NCM

Enact- ment	Adoption Date	Subject	Disposition
05-04	2-8-2005	Vehicles and traffic amendment	Ch. 327
05-05	2-8-2005	Vehicles and traffic amendment	Ch. 327
05-06	2-22-2005	Land use procedures amendment	Ch. 202
05-07	4-5-2005	Salaries	NCM
05-08	3-8-2005	Bond	NCM
05-09	3-22-2005	Salaries	NCM
05-10	3-22-2005	Salaries	NCM
05-11	4-5-2005	Salaries	NCM
05-12	4-4-2005	Affirmative marketing plan for affordable housing	Ch. 190, Art. IV
05-13	4-19-2005	Zoning Map amendment	NCM
05-14	4-19-2005	Alcoholic beverages amendment	Ch. 74
05-15	4-19-2005	Bond	NCM
05-16	4-19-2005	Budget cap	NCM
05-17	5-3-2005	Agreement	NCM
05-18	5-3-2005	Salaries	NCM
05-19	5-3-2005	Salaries	NCM
05-20	6-21-2005	Vehicles and traffic amendment	Ch. 327
05-21	5-31-2005	Salaries	NCM
05-22	5-31-2005	Salaries	NCM
05-23	5-31-2005	Salaries	NCM
05-24	5-31-2005	Bond	NCM
05-25	5-31-2005	Bond	NCM
05-26	6-21-2005	Acquisition of property	NCM
05-27	6-21-2005	Redevelopment plan	NCM
05-28	6-21-2005	Vehicles and traffic amendment	Ch. 327
05-29	6-21-2005	Vehicles and traffic amendment	Ch. 327
05-30	6-21-2005	Vehicles and traffic amendment	Ch. 327
05-31	6-21-2005	Vehicles and traffic amendment	Ch. 327
05-32	6-21-2005	Zoning Map amendment	NCM
05-33			Withdrawn
05-34	7-12-2005	Land use procedures amendment; site plan review amendment; zoning amendment	Chs. 202, 281 and 347

Enact- ment	Adoption Date	Subject	Disposition
05-35			Withdrawn
05-36			Withdrawn
05-37	8-23-2005	Bond	NCM
05-38	8-23-2005	Fees amendment	Ch. 136
05-39	9-13-2005	Bond	NCM
05-40	9-13-2005	Bond	NCM
05-41	9-13-2005	Bond	NCM
05-42	9-13-2005	Agreement	NCM
05-43	9-27-2005	Vehicles and traffic amendment	Ch. 327
05-44	9-13-2005	Vehicles and traffic amendment	Ch. 327
05-45	9-13-2005	Vehicles and traffic amendment	Ch. 327
05-46	9-13-2005	Vehicles and traffic amendment	Ch. 327
05-47	9-27-2005	Affordable housing	Repealed by Ord. No. O-05-09
05-48	10-11-2005	Salaries	NCM
05-49	10-11-2005	Salaries	NCM
05-50	10-11-2005	Salaries	NCM
05-51	10-11-2005	Salaries	NCM
05-52			Withdrawn
05-53	2-14-2006	Bond	NCM
05-54	3-28-2006	Bond	NCM
05-55			Withdrawn
05-56	10-11-2005	Garbage, rubbish and refuse amendment	Ch. 292, Art. IV
05-57	10-11-2005	Landscapers amendment	Ch. 200
05-58	10-25-2005	Salaries	NCM
05-59	10-25-2005	Zoning Map amendment	NCM
05-60	2-14-2006	Zoning amendment	Ch. 347
05-60A	11-29-2005	Zoning amendment	Ch. 347
05-61	11-29-2005	Subdivision of land amendment; zoning amendment	Chs. 301 and 347
05-62	4-25-2006	Zoning amendment	Ch. 347
05-63	11-29-2005	Zoning amendment	Ch. 347
05-64	11-29-2005	Appropriation	NCM

Enact- ment	Adoption Date	Subject	Disposition
05-65	11-29-2005	Salaries	NCM
05-66	11-29-2005	Salaries	NCM
05-67	11-29-2005	Salaries	NCM
05-68	11-29-2005	Salaries	NCM
05-69	12-13-2005	Salaries	NCM
05-70	12-27-2005	Water amendment	Ch. 341
05-71	12-27-2005	Salaries	NCM
05-72	1-10-2006	Vehicles and traffic amendment	Ch. 327
05-72A	1-10-2006	Appropriation	NCM
05-73	3-14-2006	Zoning amendment	Ch. 347
05-74	1-10-2006	Salaries	NCM
06-01	2-14-2006	Bond	NCM
06-02	2-14-2006	Vehicles and traffic amendment	Ch. 327
06-03	2-28-2006	Vehicles and traffic amendment	Ch. 327
06-04	2-28-2006	Feeding of wildlife	Ch. 82, Art. VI
06-05	2-28-2006	Sewers: improper disposal of waste	Ch. 269, Art. VI
06-06	2-28-2006	Sewers: illicit connections	Ch. 269, Art. VII
06-07	3-14-2006	Salaries	NCM
06-08	3-14-2006	Appropriation	NCM
06-09	4-14-2006	Alcoholic beverages amendment	Ch. 74
06-10	3-14-2006	Affirmative action requirements	Ch. 8
06-11	3-28-2006	Bond	NCM
06-12	3-28-2006	Vehicles and traffic amendment	Ch. 327
06-13	4-11-2006	Water amendment	Ch. 341
06-14	4-18-2006	Agreement	NCM
06-15			Tabled
06-16	5-9-2006	Burglar and fire alarms	Ch. 71
06-17	4-25-2006	Zoning amendment	Ch. 347
06-18	5-9-2006	Stormwater control	Superseded by Ord. No. O-21-02
06-19	5-9-2006	Site plan review amendment	Ch. 281
06-20	6-13-2006	Land use procedures amendment	Ch. 202

Enact- ment	Adoption Date	Subject	Disposition
06-21	6-13-2006	Multifamily buildings amendment	Ch. 213
06-22			Withdrawn
06-23	6-13-2006	Health standards amendment	Ch. 186
06-24	6-13-2006	Sidewalk cafes amendment	Superseded by Ord. No. O-12-65
06-25			Withdrawn
06-26	6-13-2006	Mobile vendors amendment	Ch. 337
06-27	6-13-2006	Peddling and soliciting amendment	Ch. 238
06-28	6-13-2006	Health standards amendment	Ch. 186
06-29	6-13-2006	Acquisition of property	NCM
06-30	6-13-2006	Bond	NCM
06-31	6-13-2006	Budget cap	NCM
06-32	6-13-2006	Fire prevention amendment	Ch. 153
06-33	6-13-2006	Fire prevention amendment	Ch. 153
06-34	6-13-2006	Sewers: Sewer Utility; operation and maintenance of sewer system; billing enforcement	Ch. 269, Arts. IV and V
06-35	6-13-2006	Zoning amendment	Ch. 347
06-36	7-11-2006	Salaries	NCM
06-37	7-11-2006	Bond	NCM
06-38	7-11-2006	Bond	NCM
06-39	7-11-2006	Bond	NCM
06-40	7-11-2006	Sewers: Sewer Utility; operation and maintenance of sewer system amendment	Ch. 269, Art. IV
06-41	7-25-2006	Fire prevention amendment	Ch. 153
06-42	7-25-2006	Land use procedures amendment	Ch. 202
06-43	7-25-2006	Zoning amendment	Ch. 347
06-44	7-25-2006	Subdivision of land amendment	Ch. 301
06-45	7-25-2006	Site plan review amendment	Ch. 281
06-46	9-12-2006	Zoning Map amendment	NCM
06-47	9-26-2006	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
06-48	10-10-2006	Salaries	NCM

Enact- ment	Adoption Date	Subject	Disposition
06-49	10-10-2006	Salaries	NCM
06-50	10-10-2006	Salaries	NCM
06-51	9-26-2006	Zoning Map amendment	NCM
06-52	9-26-2006	Vehicles and traffic amendment	Ch. 327
06-53	9-26-2006	Vehicles and traffic amendment	Ch. 327
06-54	10-10-2006	Salaries	NCM
06-55	10-10-2006	Sewers: Sewer Utility; operation and maintenance of sewer system amendment	Ch 269, Art. IV
06-56	10-10-2006	Zoning Map amendment	NCM
06-57	11-13-2006	Vehicles and traffic amendment	Ch. 327
06-58	11-13-2006	Vehicles and traffic amendment	Ch. 327
06-59	11-13-2006	Vehicles and traffic amendment	Ch. 327
06-60	11-13-2006	Vehicles and traffic amendment	Ch. 327
06-61	11-13-2006	Sewers: billing; enforcement amendment	Ch. 269, Art. V
06-62	11-13-2006	Dedication of street and stormwater detention facilities	NCM
06-63	11-13-2006	Games of chance: Licenses	Ch. 166, Art. III
06-64	11-28-2006	Salaries	NCM
06-65			
06-66			
06-67	11-28-2006	Salaries amendment	NCM
06-68	12-19-2006	Parking restrictions for Montclair High School area amendment	Ch. 228, Art. I
06-69	12-19-2006	Towing amendment	Ch. 322
06-70	12-19-2006	Site plan review amendment	Ch. 281
06-71	12-19-2006	Subdivision of land amendment	Ch. 301
06-72	12-19-2006	Zoning amendment	Ch. 347
06-73			
06-74	12-19-2006	Vehicles and traffic amendment	Ch. 327
06-75	1-9-2007	Salary amendment	NCM
06-76	1-9-2007	Redevelopment Plan amendment	NCM

Enact- ment	Adoption Date	Subject	Disposition
06-77	12-28-2006	Montclair Center Special Improvement District amendment	Ch. 293, Art. I
06-78	1-9-2007	Bond	NCM
07-01	1-23-2007	Salaries	NCM
07-02	1-23-2007	Zoning amendment	Ch. 347
07-03			Tabled
07-04	2-6-2007	Animal Control Officers	Ch. 82, Art. VII
07-05	2-20-2007	Parking Authority amendment	Repealed by Ord. No. O-12-50
07-06	2-20-2007	Bond	NCM
07-07	2-20-2007	Land use procedures amendment	Ch. 202
07-08	2-20-2007	Zoning amendment	Ch. 347
07-09	3-20-2007	Salary	NCM
07-10	4-10-2007	Salary	NCM
07-11	4-10-2007	Zoning Map amendment	NCM
07-12	4-10-2007	Vehicles and traffic amendment	Ch. 327
07-13	4-10-2007	Vehicles and traffic amendment	Ch. 327
07-14	4-24-2007	Zoning amendment	Ch. 347
07-15	4-10-2007	Vehicles and traffic amendment	Ch. 327
07-16			Not yet adopted
07-17	4-10-2007	Violations and penalties amendment	Chs. 67, 74, 78, 82, 86, 90, 93, 96, 100, 104, 108, 127, 140, 144, 148, 153, 163, 166, 170, 174, 178, 182, 186, 190, 200, 213, 217, 218, 220, 222, 230, 234, 238, 243, 247, 256, 260, 264, 269, 276, 277, 281, 292, 294, 297, 301, 305, 313, 317, 322, 333, 337, 341
07-18	4-24-2007	Municipal CAP	NCM
07-19	5-8-2007	Bond	NCM
07-20			Defeated
07-21	5-8-2007	Designation of National Incident Management System	NCM
07-22	5-8-2007	Vehicles and traffic amendment	Ch. 327
07-23	5-22-2007	Salaries	NCM

Enact- ment	Adoption Date	Subject	Disposition
07-24	5-22-2007	Salaries	NCM
07-25			Withdrawn
07-26	5-22-2007	Bond	NCM
07-27	6-26-2007	Vehicles and traffic amendment	Ch. 327
07-28	6-26-2007	Sewer Utility; operation and maintenance of sewer system amendment	Ch. 269, Art. IV
07-29	5-22-2007	Flood damage prevention	Repealed by Ord. No. O-20-03
07-30	6-12-2007	Vehicles and traffic amendment	Ch. 327
07-31	6-12-2007	Salaries	NCM
07-32	6-26-2007	Vehicles and traffic amendment	Ch. 327
07-33			Withdrawn
07-34	7-10-2007	Bond	NCM
07-35	7-10-2007	Zoning amendment	Ch. 347
07-36	7-10-2007	Zoning amendment	Ch. 347
07-37			Withdrawn
07-38	8-21-2007	Parking restrictions for Montclair High School area amendment	Ch. 228, Art. I
07-39	10-9-2007	Health standards amendment	Ch. 186
07-40	9-25-2007	Bond	NCM
07-41	9-25-2007	Bond	NCM
07-42	10-9-2007	Zoning Map amendment	NCM
07-43	9-11-2007	Adoption of Elm/New and Mission Area redevelopment plan; Zoning Map amendment	NCM
07-44	10-23-2007	Bond	NCM
07-45	10-23-2007	Vehicles and traffic amendment	Ch. 327
07-46	11-12-2007	Towing amendment	Ch. 322
07-47	11-12-2007	Vehicles and traffic amendment	Ch. 327
07-48	11-12-2007	Vehicles and traffic amendment	Ch. 327
07-49	11-12-2007	Refunding bond	NCM
07-50	11-12-2007	Bond	NCM
07-51	1-22-2008	Zoning Map amendment: historic designation	NCM

Enact- ment	Adoption Date	Subject	Disposition
07-52	11-27-2007	Reappropriation	NCM
07-53	12-18-2007	Water amendment	Ch. 341
07-54	12-18-2007	Sewer Utility; operation and maintenance of sewer system amendment	Ch. 269, Art. IV
07-55	12-18-2007	Salary amendment	NCM
07-56	12-18-2007	Zoning amendment	Ch. 347
07-57	1-8-2008	Vehicles and traffic amendment	Ch. 327
07-58	1-8-2008	Vehicles and traffic amendment	Ch. 327
07-59	1-8-2008	Zoning amendment	Ch. 347
07-60	1-8-2008	Zoning amendment	Ch. 347
07-61	1-8-2008	Alcoholic beverages amendment	Ch. 74
07-62		Alcoholic beverages amendment	Not adopted
07-63		Disorderly conduct amendment	Tabled
07-64	1-8-2008	Administration of government amendment	Ch. 3
07-65	1-8-2008	Salary amendment	NCM
07-66	1-8-2008	Salary amendment	NCM
08-01	2-11-2008	Site plan review amendment	Ch. 281
08-02	2-11-2008	Zoning amendment	Ch. 347
08-03	2-11-2008	Filming amendment	Ch. 140
08-04	2-11-2008	Street vacation	NCM
08-05	2-11-2008	Streets and sidewalks: awnings, canopies and marquees amendment	Ch. 297, Art. V
08-06	2-26-2008	Salaries	NCM
08-07	2-26-2008	Salaries	NCM
08-08	2-26-2008	Salaries	NCM
08-09	3-11-2008	Zoning amendment	Ch. 347
08-10	3-18-2008	Bond	NCM
08-11	3-11-2008	Bond	NCM
08-12	3-11-2008	Elm/New and Mission Area Redevelopment Plan amendment	NCM
08-13	6-10-2008	Street dedication	NCM
08-14	5-6-2008	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
08-15		Vehicles and traffic amendment	Postponed indefinitely
08-16	6-17-2008	Exceed budget; cap bank	NCM
08-17	6-24-2008	Land use procedures amendment	Ch. 202
08-18	6-24-2008	Portable storage units	Ch. 241
08-19			Withdrawn
08-20	6-24-2008	Vehicles and traffic amendment	Ch. 327
08-21	6-24-2008	Vehicles and traffic amendment	Ch. 327
08-22	6-24-2008	Vehicles and traffic amendment	Ch. 327
08-23	6-24-2008	Vehicles and traffic amendment	Ch. 327
08-24	6-24-2008	Salary amendment	NCM
08-25	9-9-2008	Bond	NCM
08-26	9-9-2008	Parking lots: parking permits amendment, Crescent Parking Plaza amendment	Ch. 230, Arts. I and II
08-27	9-9-2008	Vehicles and traffic amendment	Ch. 327
08-28	9-9-2008	Vehicles and traffic amendment	Ch. 327
08-29	9-9-2008	Vehicles and traffic amendment	Ch. 327
08-30			Withdrawn
08-31			Withdrawn
08-32	10-7-2008	Vehicles and traffic amendment	Ch. 327
08-33	11-10-2008	Streets and sidewalks: curbs, sidewalks and driveways amendment	Ch. 297, Art. I
08-34	10-7-2008	Cable television franchise	Ch. A351
08-35	10-21-2008	Bond	NCM
08-36	10-21-2008	Bond	NCM
08-37	11-10-2008	Vehicles and traffic amendment	Ch. 327
08-38	11-10-2008	Vehicles and traffic amendment	Ch. 327
08-39			Withdrawn
08-40	11-10-2008	Parking lots: parking permits amendment; Lloyd Road Parking Lot amendment	Ch. 230, Arts. I and IV
08-41	11-10-2008	Zoning Map amendment	NCM
08-42	11-25-2008	Bond	NCM
08-43	11-10-2008	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
08-44	11-25-2008	Bond	NCM
08-45	11-25-2008	Vehicles and traffic amendment	Ch. 327
08-46	12-9-2008	Vehicles and traffic amendment	Ch. 327
08-47	1-6-2009	Zoning amendment	Ch. 347
08-48	1-6-2009	Parking lots: parking permits amendment	Ch. 230, Art. I
08-49	1-6-2009	Zoning amendment	Ch. 347
08-50	1-6-2009	Vehicles and traffic amendment	Ch. 327
08-51		Noise amendment	Withdrawn
08-52	1-6-2009	Vehicles and traffic amendment	Ch. 327
08-53	1-6-2009	Vehicles and traffic amendment	Ch. 327
08-54	1-6-2009	Health standards amendment	Ch. 186
08-55	1-6-2009	Water amendment	Ch. 341
08-56	1-6-2009	Sewer utility: operation and maintenance of sewer system amendment	Ch. 269, Art. IV
O-001-09	2-3-2009	Designation of historic landmark; Zoning Map amendment	NCM
O-002-09	2-17-2009	Zoning amendment	Ch. 347
O-003-09	9-22-2009	Salaries and compensation amendment	See Ch. 55
O-004-09	3-10-2009	Salaries and compensation amendment	See Ch. 55
O-005-09			Withdrawn
O-006-09	4-7-2009	Vehicles and traffic amendment	Ch. 327
O-007-09	4-7-2009	Vehicles and traffic amendment	Ch. 327
O-008-09			Tabled
O-009-09			Tabled
O-010-09	3-24-2009	Bond	NCM
O-011-09	4-7-2009	Bond	NCM
O-012-09	3-24-2009	Exceed budget; cap bank	NCM
O-013-09	5-18-2010	Sale of property	NCM
O-014-09	6-9-2009	Zoning amendment	Ch. 347
O-015-09	5-5-2009	Solid waste: garbage, rubbish and refuse amendment	Ch. 292, Art. IV

Enact- ment	Adoption Date	Subject	Disposition
O-016-09	5-5-2009	Bond	NCM
O-017-09	5-19-2009	Bond	NCM
O-018-09			Tabled
O-019-09			Withdrawn
O-020-09	6-9-2009	Bond	NCM
O-021-09	6-9-2009	Police Department amendment	Ch. 51
O-022-09	6-9-2009	Civil Rights Commission amendment	Ch. 11
O-023-09	6-9-2009	Housing Commission amendment	Ch. 29
O-024-09			Tabled
O-025-09	6-9-2009	Vehicles and traffic amendment	Ch. 327
O-026-09	6-9-2009	Vehicles and traffic amendment	Ch. 327
O-027-09	6-9-2009	Vehicles and traffic amendment	Ch. 327
O-028-09	6-9-2009	Vehicles and traffic amendment	Ch. 327
O-029-09	6-9-2009	Vehicles and traffic amendment	Ch. 327
O-030-09	6-9-2009	Vehicles and traffic amendment	Ch. 327
O-031-09	7-7-2009	Solid waste: garbage, rubbish and refuse amendment	Ch. 292, Art. IV
O-032-09	7-7-2009	Amusements: amusement business licensing amendment and automatic amusement games and arcades amendment; filming amendment; landscapers amendment; peddling and soliciting amendment; special sales: garage sales amendment; taxicabs and liveries amendment; towing amendment; mobile vendors amendment	Chs. 78, Art. I and III; 140; 200; 238; 264, Art. II; 313; 322; 337
O-033-09	7-7-2009	Zoning amendment	Ch. 347
O-034-09			Withdrawn
O-035-09	7-21-2009	Bond	NCM
O-036-09	7-21-2009	Bond	NCM
O-037-09	8-4-2009	Land use procedures amendment	Ch. 202
O-038-09	8-4-2009	Vehicles and traffic amendment	Ch. 327
O-039-09	8-18-2009	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
O-040-09	8-18-2009	Vehicles and traffic amendment	Ch. 327
O-041-09	8-18-2009	Vehicles and traffic amendment	Ch. 327
O-042-09	9-1-2009	Shuttle bus service amendment	Ch. 274
O-043-09	8-18-2009	Vehicles and traffic amendment	Ch. 327
O-044-09	9-22-2009	Portable storage units amendment	Ch. 241
O-045-09	8-18-2009	Vehicles and traffic amendment	Ch. 327
O-046-09			Not adopted
O-047-09	9-1-2009	Salaries and compensation amendment	See Ch. 55
O-048-09	10-20-2009	Salaries and compensation amendment	See Ch. 55
O-049-09	9-1-2009	Vehicles and traffic amendment	Ch. 327
O-050-09	9-1-2009	Salaries and compensation amendment	See Ch. 55
O-051-09	9-1-2009	Bond	NCM
O-052A-09	9-22-2009	Bond	NCM
O-052B1-09	10-20-2009	Bond	NCM
O-052B2-09	10-20-2009	Bond	NCM
O-052B3-09	10-20-2009	Bond	NCM
O-053-09	9-22-2009	Affordable housing	Ch. 65; Ch. 190, Art. III (Editor's Note only)
O-054-09	9-22-2009	Zoning amendment	Ch. 347
O-055-09			Defeated
O-056-09	9-22-2009	Vehicles and traffic amendment	Ch. 327
O-057-09	9-22-2009	Vehicles and traffic amendment	Ch. 327
O-058-09	10-20-2009	Vehicles and traffic amendment	Ch. 327
O-059-09			Withdrawn
O-060-09	10-20-2009	Vehicles and traffic amendment	Ch. 327
O-061-09			Withdrawn
O-062-09	10-20-2009	Vehicles and traffic amendment	Ch. 327
O-063-09	11-10-2009	Bond amendment	NCM
O-064-09	11-10-2009	Site plan review amendment	Ch. 281
O-065-09	11-10-2009	Refunding bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
O-066-09	12-8-2009	Retirement: Defined Contribution Retirement Program	Ch. 53, Art. I
O-067-09			Not introduced
O-068-09	12-8-2009	Water amendment	Ch. 341
O-069-09	12-8-2009	Bond	NCM
O-070-09	12-8-2009	Bond	NCM
O-071-09	12-8-2009	Fire Department salaries amendment	NCM
O-072-09	12-29-2009	Sewer utility; operation and maintenance of sewer system amendment	Ch. 269, Art. IV
O-073-09	12-29-2009	Water amendment	Ch. 341
O-074-09	12-29-2009	Vehicles and traffic amendment	Ch. 327
O-075-09	12-29-2009	Vehicles and traffic amendment	Ch. 327
O-076-09	12-29-2009	Vehicles and traffic amendment	Ch. 327
O-077-09	1-19-2010	Bond cancellation	NCM
O-10-001	3-23-2010	Salaries and compensation amendment	See Ch. 55
O-10-002	3-23-2010	Salaries and compensation amendment	See Ch. 55
O-10-003			Not yet adopted
O-10-004			Withdrawn
O-10-005	3-9-2010	Special improvement districts: Downtown Business Improvement Zone	Ch. 293, Art. II
O-10-006	3-9-2010	Vehicles and traffic amendment	Ch. 327
O-10-007	3-9-2010	Vehicles and traffic amendment	Ch. 327
O-10-008	3-9-2010	Vehicles and traffic amendment	Ch. 327
O-10-009	3-9-2010	Vehicles and traffic amendment	Ch. 327
O-10-010	3-9-2010	Vehicles and traffic amendment	Ch. 327
O-10-011	3-9-2010	Salaries and compensation amendment	See Ch. 55
O-10-012	3-9-2010	Bond	NCM
O-10-013	3-9-2010	Bond	NCM
O-10-014	4-6-2010	Bond cancellation	NCM

Enact- ment	Adoption Date	Subject	Disposition
O-10-015			Tabled
O-10-016	4-6-2010	Vehicles and traffic amendment	Ch. 327
O-10-017			Not yet adopted
O-10-018	4-6-2010	Vehicles and traffic amendment	Ch. 327
O-10-019	4-6-2010	Vehicles and traffic amendment	Ch. 327
O-10-020	4-6-2010	Vehicles and traffic amendment	Ch. 327
O-10-021	4-6-2010	Vehicles and traffic amendment	Ch. 327
O-10-022	4-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-023	4-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-024	5-4-2010	Exceed budget; cap bank	NCM
O-10-025	5-18-2010	Vehicles and traffic amendment	Ch. 327
O-10-026	6-22-2010	Zoning amendment	Ch. 347
O-10-027	5-26-2010	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
O-10-028		Bond	NCM
O-10-029	6-22-2010	Vehicles and traffic amendment	Ch. 327
O-10-030	7-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-031	7-20-2010	Disorderly conduct amendment	Ch. 127
O-10-032	7-20-2010	Sidewalk cafes amendment	Superseded by Ord. No. O-12-65
O-10-033	7-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-034	7-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-035	7-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-036	7-20-2010	Vehicles and traffic amendment	Ch. 327
O-10-037			Withdrawn
O-10-038	8-3-2010	Vehicles and traffic amendment	Ch. 327
O-10-039	8-3-2010	Vehicles and traffic amendment	Ch. 327
O-10-040	8-3-2010	Vehicles and traffic amendment	Ch. 327
O-10-041	8-3-2010	Vehicles and traffic amendment	Ch. 327
O-10-042	8-3-2010	Vehicles and traffic amendment	Ch. 327
O-10-043	8-24-2010	Vehicles and traffic amendment	Ch. 327
O-10-044			Tabled
O-10-045	8-24-2010	Vehicles and traffic amendment	Ch. 327
O-10-046	8-24-2010	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
O-10-047	8-24-2010	Vehicles and traffic amendment	Ch. 327
O-10-048	8-24-2010	Vehicles and traffic amendment	Ch. 327
O-10-049		Lease renewal agreement	NCM
O-10-050	8-24-2010	Vehicles and traffic amendment	Ch. 327
O-10-051	8-24-2010	Vehicles and traffic amendment	Ch. 327
O-10-052	9-21-2010	Landscapers amendment	Ch. 200
O-10-053			Tabled
O-10-054	9-21-2010	Vehicles and traffic amendment	Ch. 327
O-10-055	9-21-2010	Filming amendment	Ch. 140
O-10-056	10-5-2010	Peddling and soliciting amendment	Ch. 238
O-10-057			Tabled
O-10-058	10-19-2010	Police Department amendment	Ch. 51
O-10-059	10-19-2010	Vehicles and traffic amendment	Ch. 327
O-10-060	10-19-2010	Vehicles and traffic amendment	Ch. 327
O-10-061			Withdrawn
O-10-062	10-19-2010	Vehicles and traffic amendment	Ch. 327
O-10-063	10-19-2010	Vehicles and traffic amendment	Ch. 327
O-10-064	10-19-2010	Vehicles and traffic amendment	Ch. 327
O-10-065	11-9-2010	Vehicles and traffic amendment	Ch. 327
O-10-066		Tax refund	NCM
O-10-067			Not adopted
O-10-068	12-7-2010	Vehicles and traffic amendment	Ch. 327
O-10-069	12-7-2010	Vehicles and traffic amendment	Ch. 327
O-10-070		Bond	NCM
O-10-071		Bond	NCM
O-10-072			Withdrawn
O-10-073		Bond	NCM
O-10-074	12-7-2010	Lease of property	NCM
O-10-075	12-28-2010	Water amendment	Ch. 341
O-10-076	12-28-2010	Vehicles and traffic amendment	Ch. 327
O-10-077	12-28-2010	Vehicles and traffic amendment	Ch. 327
O-11-001			Withdrawn
O-11-002	2-15-2011	Land use procedures amendment	Ch. 202

Enact- ment	Adoption Date	Subject	Disposition
O-11-003		Salaries	NCM
O-11-004		Salaries	NCM
O-11-005		Salaries	NCM
O-11-006	3-8-2011	Vehicles and traffic amendment	Ch. 327
O-11-007	3-8-2011	Taxicabs and liveries amendment	Ch. 313
O-11-008	3-8-2011	Vehicles and traffic amendment	Ch. 327
O-11-009	4-5-2011	Vehicles and traffic amendment	Ch. 327
O-11-010	4-5-2010	Vehicles and traffic amendment	Ch. 327
O-11-011	4-5-2011	Vehicles and traffic amendment	Ch. 327
O-11-012			Withdrawn
O-11-013	4-5-2011	Burglar and fire alarms amendment	Ch. 71
O-11-014		Bond	NCM
O-11-015	4-5-2011	Redevelopment plan amendment	NCM
O-11-016			NCM
O-11-017			NCM
O-11-018			NCM
O-11-019			NCM
O-11-020			NCM
O-11-021			Tabled
O-11-022			NCM
O-11-023	4-21-2011	Land use procedures amendment	Ch. 202
O-11-024	5-24-2011	Refuse containers and dumpsters	Ch. 292, Art. V
O-11-025	5-24-2011	Storm sewer system amendment	Ch. 270
O-11-026	5-24-2011	Storm sewer system	Ch. 270
O-11-027	5-24-2011	Sanitary sewers	Ch. 269
O-11-028	5-24-2011	Storm sewer system amendment	Ch. 270
O-11-029			Withdrawn
O-11-030			Tabled
O-11-031	5-24-2011	Fees amendment	Ch. 136
O-11-032			Not adopted
O-11-033	6-14-2011	Fees for underwriting on Township-funded media	Ch. 136, Art. II

Enact- ment	Adoption Date	Subject	Disposition
O-11-034	5-24-2011	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
O-11-035	6-14-2011	Multifamily buildings amendment	Ch. 213
O-11-036	6-14-2011	Public recreational bathing	Ch. 253
O-11-037			Not adopted
O-11-038			Tabled
O-11-039			Withdrawn
O-11-040	6-14-2011	Vehicles and traffic amendment	Ch. 327
O-11-041		Bond	NCM
O-11-042	8-16-2011	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
O-11-043		Bond	NCM
O-11-044	8-16-2011	Refuse containers and dumpsters amendment	Ch. 292, Art. V
O-11-045	8-16-2011	Vehicles and traffic amendment	Ch. 327
O-11-046	8-16-2011	Vehicles and traffic amendment	Ch. 327
O-11-047	8-16-2011	Vehicles and traffic amendment	Ch. 327
O-11-048	8-16-2011	Vehicles and traffic amendment	Ch. 327
O-11-049		Purchase of property	NCM
O-11-050	10-4-2011	Zoning amendment	Ch. 347
O-11-051	10-4-2011	Zoning amendment	Ch. 347
O-11-052	10-4-2011	Land use procedures	Ch. 202
O-11-053	10-4-2011	Site plan review amendment	Ch. 281
O-11-054		Bond	NCM
O-11-055			Withdrawn
O-11-056			Withdrawn
O-11-057			Withdrawn
O-11-058	9-6-2011	Vehicles and traffic amendment	Ch. 327
O-11-059	10-4-2011	Professional service contracts	Repealed by Ord. No. O-23-41
O-11-060	10-4-2011	Montclair Center Gateway Redevelopment Plan	NCM
O-11-061	10-4-2011	Vehicles and traffic amendment	Ch. 327
O-11-062			Defeated

Enact- ment	Adoption Date	Subject	Disposition
O-11-063			Withdrawn
O-11-064			Postponed
O-11-065	11-1-2011	Vehicles and traffic amendment	Ch. 327
O-11-066	11-1-2011	Mobile vending amendment	Ch. 337
O-11-067		Bond	NCM
O-11-068	11-14-2011	Special improvement districts amendment	Ch. 293
O-11-069			Defeated
O-11-070			Withdrawn
O-11-071		Salaries	NCM
O-11-072		Bond	NCM
O-11-073			Defeated
O-11-074		Bond	NCM
O-11-075			Withdrawn
O-11-076		Lease agreement amendment	NCM
O-11-077			Withdrawn
O-11-078	12-6-2011	Vehicles and traffic amendment	Ch. 327
O-11-079	12-6-2011	Vehicles and traffic amendment	Ch. 327
O-11-080	12-6-2011	Vehicles and traffic amendment	Ch. 327
O-11-081	12-6-2011	Vehicles and traffic amendment	Ch. 327
O-11-082			Withdrawn
O-11-083			Withdrawn
O-11-084	1-10-2012	Vehicles and traffic amendment	Ch. 327
O-12-01	2-7-2012	Park regulations amendment	Ch. 234, Art. I
O-12-02	2-21-2012	Vehicles and traffic amendment	Ch. 327
O-12-03	2-21-2012	Vehicles and traffic amendment	Ch. 327
O-12-04	2-21-2012	Vehicles and traffic amendment	Ch. 327
O-12-05	2-21-2012	Vehicles and traffic amendment	Ch. 327
O-12-06	2-21-2012	Vehicles and traffic amendment	Ch. 327
O-12-07			Withdrawn
O-12-08	2-21-2012	Vehicles and traffic amendment	Ch. 327
O-12-09	2-21-2012	Purchase of property	NCM
O-12-10	2-21-2012	Purchase of property	NCM
O-12-11			Withdrawn

Enact- ment	Adoption Date	Subject	Disposition
O-12-12	3-20-2012	Vehicles and traffic amendment	Ch. 327
O-12-13	3-6-2012	Vehicles and traffic amendment	Ch. 327
O-12-14	3-20-2012	Vehicles and traffic amendment	Ch. 327
O-12-15	3-20-2012	Vehicles and traffic amendment	Ch. 327
O-12-16	3-20-2012	Vehicles and traffic amendment	Ch. 327
O-12-17	3-20-2012	Appropriation	NCM
O-12-18	3-20-2012	Montclair Center Special Improvement District amendment	Ch. 293, Art. I
O-12-19			Withdrawn
O-12-20	3-20-2012	Zoning Map amendment	NCM
O-12-21	3-6-2012	Bond	NCM
O-12-22	4-3-2012	Exceed budget; cap bank	NCM
O-12-23	4-3-2012	Zoning amendment	Ch. 347
O-12-24	4-3-2012	Zoning amendment	Ch. 347
O-12-25	4-3-2012	Zoning amendment	Ch. 347
O-12-26	4-17-2012	Bond	NCM
O-12-27	5-1-2012	Bond	NCM
O-12-28	5-1-2012	Redevelopment plan amendment	NCM
O-12-29			Tabled
O-12-30	5-22-2012	Purchase of property	NCM
O-12-31	5-22-2012	Bond	NCM
O-12-32	5-22-2012	Bond	NCM
O-12-33	5-22-2012	Animal shelter	Ch. 83
O-12-34	5-22-2012	Vehicles and traffic amendment	Ch. 327
O-12-35	5-22-2012	Appropriation	NCM
O-12-36	5-22-2012	Bond	NCM
O-12-37			Withdrawn
O-12-38	5-22-2012	Vehicles and traffic amendment	Ch. 327
O-12-39	5-22-2012	Vehicles and traffic amendment	Ch. 327
O-12-40	6-12-2012	Bond	NCM
O-12-41	6-12-2012	Bond	NCM
O-12-42	6-12-2012	Bond	NCM
O-12-43	6-12-2012	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
O-12-44	6-12-2012	Trees: preservation of shade trees	Ch. 324, Art. I
O-12-45			Tabled
O-12-46	6-19-2012	Salaries	NCM
O-12-47			Withdrawn
O-12-48	6-12-2012	Redevelopment plan amendment	NCM
O-12-49			Tabled
O-12-50	12-4-2012	Dissolution of Parking Authority	Ch. 46, Arts. I and II (reference only)
O-12-51	8-21-2012	Transfer of financial agreement	NCM
O-12-52	9-18-2012	Bond	NCM
O-12-53	10-16-2012	Police Department amendment	Ch. 51
O-12-54	10-16-2012	Vehicles and traffic amendment	Ch. 327
O-12-55	10-16-2012	Vehicles and traffic amendment	Ch. 327
O-12-56	11-8-2012	Vehicles and traffic amendment	Ch. 327
O-12-57	11-8-2012	Vehicles and traffic amendment	Ch. 327
O-12-58	12-11-2012	Zoning amendment	Ch. 347
O-12-59	11-8-2012	Administration of government amendment	Ch. 3
O-12-60			Withdrawn
O-12-61	11-8-2012	Honorary street designations	Ch. 297, Art. VIII
O-12-62	12-11-2012	Redevelopment Plan amendment	NCM
O-12-63			Withdrawn
O-12-64		Lease agreement	NCM
O-12-65	12-18-2012	Sidewalk cafes amendment	Ch. 276
O-12-66	12-18-2012	Parking restrictions for Montclair High School area amendment	Ch. 228, Art. I
O-12-67	12-18-2012	Parking lots amendment	Ch. 230, Arts. I, II, III, IV
O-12-68	12-18-2012	Vehicles and traffic amendment	Ch. 327
O-12-69		PILOT agreement	NCM
O-12-70	12-27-2012	Administration of government amendment	Ch. 3
O-12-71	12-27-2012	Parking Enforcement Officer	Ch. 44, Art. VI
O-12-72			Renumbered as Ord. No. O-13-01
O-12-73	12-27-2012	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
O-12-74	12-27-2012	Salaries	NCM
O-12-75	12-27-2012	Salaries	NCM
O-13-01	2-5-2013	Vehicles and traffic amendment	Ch. 327
O-13-02	2-12-2013	Parking fees amendment; vehicles and traffic amendment	See Ch. 230; Ch. 327
O-13-03	2-12-2013	Tax exemption agreement	NCM
O-13-04	2-26-2013	Vehicles and traffic amendment	Ch. 327
O-13-05	2-26-2013	Vehicles and traffic amendment	Ch. 327
O-13-06	2-26-2013	Salaries	See Ch. 55
O-13-07	3-12-2013	Bond	NCM
O-13-08	3-12-2013	Salaries	See Ch. 55
O-13-09	3-12-2013	Zoning amendment	Ch. 347
O-13-10	4-9-2013	Exceed budget; cap bank	NCM
O-13-11	4-16-2013	Transfer of financial agreement	NCM
O-13-12			Tabled
O-13-13	5-14-2013	Redevelopment plan amendment	NCM
O-13-14	5-14-2013	Salaries	See Ch. 55
O-13-15	5-14-2013	Salaries	See Ch. 55
O-13-16	5-14-2013	Vehicles and traffic amendment	Ch. 327
O-13-17	5-14-2013	Bond	NCM
O-13-18	5-14-2013	Bond	NCM
O-13-19	5-14-2013	Refunding bond	NCM
O-13-20	6-11-2013	Bond	NCM
O-13-21	6-18-2013	Zoning amendment	Ch. 347
O-13-22	6-18-2013	Zoning amendment	Ch. 347
O-13-23	6-18-2013	Land use procedures amendment	Ch. 202
O-13-24	7-9-2013	Eastern Gateway redevelopment plan	NCM
O-13-25	6-18-2013	Streets and sidewalks: additional regulations amendment	Ch. 297, Art. VIII
O-13-26	6-18-2013	Vehicles and traffic amendment	Ch. 327
O-13-27	6-18-2013	Center Gateway redevelopment plan amendment	NCM
O-13-28	7-16-2013	Zoning amendment	Ch. 347

Enact- ment	Adoption Date	Subject	Disposition
O-13-29	7-16-2013	Vacant and abandoned property: registration and maintenance	Ch. 249, Art. I
O-13-30	7-16-2013	Vacant and abandoned property: abandoned property list	Ch. 249, Art. II
O-13-31	7-16-2013	Appropriation	NCM
O-13-32	7-16-2013	Library property: no-smoking policy	Ch. 204, Art. II
O-13-33	7-16-2013	Chronic nuisance properties	Ch. 218, Art. II
O-13-34	8-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-35	8-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-36	8-12-2013	Salaries	See Ch. 55
O-13-37			Withdrawn
O-13-38	8-12-2013	Salaries	See Ch. 55
O-13-39	8-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-40	8-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-41	8-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-42	8-12-2013	Parking permits amendment	Ch. 230, Art. I
O-13-43	9-3-2013	Appropriation	NCM
O-13-44	8-12-2013	Acquisition of property	NCM
O-13-45	8-12-2013	Towing amendment	Ch. 322
O-13-46	9-10-2013	Dogs amendment; cats amendment	Ch. 82, Arts. I and V
O-13-47	9-10-2013	Salaries	See Ch. 55
O-13-48	9-10-2013	Appropriation	NCM
O-13-49	9-10-2013	Appropriation	NCM
O-13-50	9-10-2013	Salaries	See Ch. 55
O-13-51	10-8-2013	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
O-13-52	10-8-2013	General Township fees amendment	Ch. 136, Art. I
O-13-53	10-8-2013	Salaries	See Ch. 55
O-13-54	11-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-55	11-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-56			Withdrawn
O-13-57	11-12-2013	Vehicles and traffic amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
O-13-58	11-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-59	11-12-2013	Vehicles and traffic amendment	Ch. 327
O-13-60			Withdrawn
O-13-61			Withdrawn
O-13-62			Withdrawn
O-13-63			Withdrawn
O-13-64			Withdrawn
O-13-65	11-18-2013	Salaries	See Ch. 55
O-13-66	11-18-2013	Salaries	See Ch. 55
O-13-67	11-18-2013	Reappropriation	NCM
O-13-68			Postponed
O-13-69	12-10-2013	Health standards amendment	Ch. 186
O-13-70			Postponed
O-13-71			Postponed
O-13-72	1-28-2014	Zoning amendment	Ch. 347
O-13-73	1-28-2014	Zoning amendment	Ch. 347
O-13-74	1-28-2014	Appropriation	NCM
O-13-75	1-28-2014	Vehicles and traffic amendment	Ch. 327
O-14-001	3-4-2014	Property maintenance amendment	Ch. 247
O-14-002	3-4-2014	Redevelopment plan amendment	NCM
O-14-003	3-4-2014	Bond	NCM
O-14-004	3-4-2014	Bond	NCM
O-14-005	3-4-2014	Bond	NCM
O-14-006	3-4-2014	Bond	NCM
O-14-007	3-4-2014	Zoning amendment	Ch. 347
O-14-008	3-4-2014	Vehicles and traffic amendment	Ch. 327
O-14-009	4-29-2014	Bond	NCM
O-14-010	4-29-2014	Snow and ice removal amendment	Ch. 297, Art. III
O-14-011	4-29-2014	Exceed budget; cap bank	NCM
O-14-012	4-29-2014	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
O-14-013	4-29-2014	Park regulations amendment	Ch. 234, Art. I

Enact- ment	Adoption Date	Subject	Disposition
O-14-014	4-29-2014	Mobile vendors amendment	Ch. 337
O-14-015			Withdrawn
O-14-016			Withdrawn
O-14-017			Postponed
O-14-018			Postponed
O-14-019	6-17-2014	Bond	NCM
O-14-020	6-17-2014	Bond	NCM
O-14-021	6-17-2014	Street conveyance	NCM
O-14-022	7-22-2014	Reappropriation	NCM
O-14-023	7-22-2014	Appropriation	NCM
O-14-024	8-12-2014	Vehicles and traffic amendment	Ch. 327
O-14-025	8-12-2014	Bond	NCM
O-14-026	8-12-2014	Bond	NCM
O-14-027	8-12-2014	Bond	NCM
O-14-028	8-12-2014	Salaries	See Ch. 55
O-14-029	8-12-2014	General Township fees amendment	Ch. 136, Art. I
O-14-030	8-12-2014	Excavations in streets	Ch. 297, Art. II
O-14-031	9-16-2014	Cancellation of capital improvement balances	NCM
O-14-032	9-16-2014	Abandoned vehicles	Ch. 326
O-14-033	10-7-2014	Excavations in streets amendment	Ch. 297, Art. II
O-14-034	10-7-2014	Bond	NCM
O-14-035	10-7-2014	Bond	NCM
O-14-036	10-7-2014	Bond	NCM
O-14-037	10-7-2014	Salaries	See Ch. 55
O-14-038	10-7-2014	Salaries	See Ch. 55
O-14-039	11-17-2014	Vehicles and traffic amendment	Ch. 327
O-14-040	11-17-2014	Affordable housing amendment	Ch. 65
O-14-041	12-9-2014	Police Department amendment	Ch. 51
O-14-042	11-17-2014	Vehicles and traffic amendment	Ch. 327
O-14-043	11-17-2014	Water amendment	Ch. 341

Enact- ment	Adoption Date	Subject	Disposition
O-14-044	11-17-2014	Parking lots: parking permits amendment	Ch. 230, Art. I
O-14-045	11-17-2014	Salaries	See Ch. 55
O-14-046	11-17-2014	Lease agreement	NCM
O-14-047	11-4-2014	Employer regulations: paid sick leave	Ch. 132, Art. I
O-14-048			Not adopted
O-14-049	12-9-2014	Water amendment	Ch. 341
O-14-050	12-9-2014	Water amendment	Ch. 341
O-15-001	1-20-2015	Vacant and abandoned property: registration and maintenance amendment	Ch. 249, Art. I
O-15-002	1-20-2015	Land use procedures amendment	Ch. 202
O-15-003	1-20-2015	Salaries	See Ch. 55
O-15-004	3-10-2015	Vehicles and traffic amendment	Ch. 327
O-15-005	3-10-2015	Salaries	See Ch. 55
O-15-006	3-10-2015	Vehicles and traffic amendment	Ch. 327
O-15-007	3-10-2015	Hotel and motel occupancy tax	Ch. 309, Art. V
O-15-008			Withdrawn
O-15-009	3-17-2015	Bond	NCM
O-15-010	4-7-2015	Vehicles and traffic amendment	Ch. 327
O-15-011	4-14-2015	Easement	NCM
O-15-012	5-19-2015	Vehicles and traffic amendment	Ch. 327
O-15-013	5-19-2015	Exceed budget; cap bank	NCM
O-15-014	6-9-2015	Fire prevention amendment; vehicles and traffic amendment	Ch. 153; Ch. 327
O-15-015	7-21-2015	Vehicles and traffic amendment	Ch. 327
O-15-016	7-21-2015	Land use procedures amendment; zoning amendment	Ch. 202; Ch. 347
O-15-017	7-21-2015	Vacant and abandoned property: registration and maintenance amendment; abandoned property list amendment	Ch. 249, Art. I; Ch. 249, Art. II
O-15-018	7-21-2015	Mobile vendors amendment	Ch. 337
O-15-019	8-25-2015	Salaries	See Ch. 55
O-15-020	8-25-2015	Zoning amendment	Ch. 247

Enact- ment	Adoption Date	Subject	Disposition
O-15-021	8-25-2015	Vehicles and traffic amendment	Ch. 327
O-15-022	8-25-2015	Vehicles and traffic amendment	Ch. 327
O-15-023	8-25-2015	Vehicles and traffic amendment	Ch. 327
O-15-024	8-25-2015	Bond	NCM
O-15-025	9-29-2015	Land use procedures amendment; zoning amendment	Ch. 202; Ch. 347
O-15-026	9-29-2015	Salaries	See Ch. 55
O-15-027	9-29-2015	Vehicles and traffic amendment	Ch. 327
O-15-028	9-29-2015	Solid waste: newspapers, glass and other recyclables amendment; corrugated cardboard repealer; garbage, rubbish and refuse amendment	Ch. 292, Art. II; Ch. 292, Art. III (reference only); Ch. 292, Art. IV
O-15-029	9-29-2015	Vehicles and traffic amendment	Ch. 327
O-15-030	10-20-2015	Vehicles and traffic amendment	Ch. 327
O-15-031	10-20-2015	Salaries	See Ch. 55
O-15-032	11-10-2015	Appropriation	NCM
O-15-033	11-10-2015	Vehicles and traffic amendment	Ch. 327
O-15-034	11-10-2015	Vehicles and traffic amendment	Ch. 327
O-15-035	12-1-2015	Appropriation	NCM
O-15-036	1-19-2016	Lighting: invasive light	Ch. 207, Art. I
O-15-037	12-8-2015	Zoning amendment	Ch. 347
O-15-038	12-15-2015	Financial agreement	NCM
O-15-039	1-19-2016	Alcoholic beverages amendment	Ch. 74
O-15-040	1-19-2016	Mobile vendors: food truck, trailer and cart fire safety	Ch. 337, Art. II
O-15-041	1-19-2016	Deed restriction	NCM
O-15-042	1-19-2016	Land use procedures amendment; site plan review amendment	Ch. 202; Ch. 281
O-15-043	1-19-2016	Zoning amendment	Ch. 347
O-15-044	1-19-2016	Vehicles and traffic amendment	Ch. 327
O-15-045	1-19-2016	Vehicles and traffic amendment	Ch. 327
O-16-001	2-16-2016	Vehicles and traffic amendment	Ch. 327
O-16-002	2-16-2016	Vacant and abandoned property: registration and maintenance amendment	Ch. 249, Art. I

Enact- ment	Adoption Date	Subject	Disposition
O-16-003	2-16-2016	Streets and sidewalks: snow and ice removal amendment	Ch. 297, Art. III
O-16-004	2-16-2016	Streets and sidewalks: excavations in streets	Ch. 297, Art. II
O-16-005	2-2-2016	Vehicles and traffic amendment	Ch. 327
O-16-006	3-15-2016	Zoning amendment	Ch. 347
O-16-007	3-15-2016	Zoning amendment	Ch. 347
O-16-008	3-15-2016	Salaries	See Ch. 55
O-16-009	3-15-2016	Vehicles and traffic amendment	Ch. 327
O-16-010	3-15-2016	Bond	NCM
O-16-011	5-24-2016	Appropriation	NCM
O-16-012	5-24-2016	Bond	NCM
O-16-013	5-24-2016	Exceed budget; cap bank	NCM
O-16-014	5-24-2016	Vehicles and traffic amendment	Ch. 327
O-16-015	5-24-2016	Vehicles and traffic amendment	Ch. 327
O-16-016	5-24-2016	Vehicles and traffic amendment	Ch. 327
O-16-017			Number not used
O-16-018	6-21-2016	Zoning amendment	Ch. 347
O-16-019	6-14-2016	Salaries	See Ch. 55
O-16-020	6-14-2016	Salaries	See Ch. 55
O-16-021	6-14-2016	Bond	NCM
O-16-022	7-26-2016	Redevelopment plan	NCM
O-16-023	8-9-2016	Appropriation	NCM
O-16-024	8-23-2016	Redevelopment plan amendment	NCM
O-16-025			Awaiting adoption
O-16-026	8-23-2016	Vehicles and traffic amendment	Ch. 327
O-16-027	-23-2016	Salaries	See Ch. 55
O-16-028	8-23-2016	Vehicles and traffic amendment	Ch. 327
O-16-029	8-23-2016	Capital funds expenditure authorization	NCM
O-16-030	8-23-2016	Capital funds expenditure authorization	NCM
O-16-031	8-23-2016	Capital funds expenditure authorization	NCM
O-16-032	8-9-2016	Bond	NCM

Enact- ment	Adoption Date	Subject	Disposition
O-16-033	9-6-2016	Vehicles and traffic amendment	Ch. 327
O-16-034	9-6-2016	Appropriation	NCM
O-16-035			Withdrawn
O-16-036			Withdrawn
O-16-037	9-20-2016	Health standards amendment	Ch. 186
O-16-038	9-20-2016	Parking permits amendment; Church Street parking lot amendment	Ch. 230, Art. I; Ch. 230, Art. III
O-16-039	10-18-2016	Zoning amendment	Ch. 347
O-16-040	10-18-2016	Vehicles and traffic amendment	Ch. 327
O-16-041	10-18-2016	Bond amendment	NCM
O-16-042			Withdrawn
O-16-043		Vehicles and traffic amendment	Not adopted
O-16-044	11-29-2016	Vehicles and traffic amendment	Tabled
O-16-045	11-29-2016	Vehicles and traffic amendment	Ch. 327
O-16-046	11-29-2016	Administration of government amendment	Ch. 3
O-16-047	11-29-2016	Salaries amendment	See Ch. 55
O-16-048	11-29-2016	Sewers amendment	Ch. 269
O-16-049	12-20-2016	Salaries	See Ch. 55
O-16-050	12-20-2016	Salaries amendment	See Ch. 55
O-16-051	12-20-2016	Refunding bond	NCM
O-16-052			Tabled
O-16-053	1-24-2017	Administration of government amendment	Ch. 3
O-16-054	1-24-2017	Zoning amendment	Ch. 347
O-17-001	2-21-2017	Financial agreement	NCM
O-17-002	2-21-2017	Land use procedures amendment	Ch. 202
O-17-003			Tabled
O-17-004			Tabled
O-17-005	2-21-2017	Zoning amendment	Ch. 347
O-17-006	2-21-2017	Montclair Center Special Improvement District amendment	Ch. 293, Art. I
O-17-007	3-7-2017	Police Department amendment	Ch. 51

Enact- ment	Adoption Date	Subject	Disposition
O-17-008	3-28-2017	Parks and playgrounds: rents and fees amendment	Ch. 234, Art. II
O-17-009	3-28-2017	Eastern Gateway redevelopment plan amendment	NCM
O-17-010			Withdrawn
O-17-011			Not adopted
O-17-012	3-28-2017	Exceed budget; cap bank	NCM
O-17-013	3-28-2017	Bond	NCM
O-17-014	3-28-2017	Administration of government amendment	Ch. 3
O-17-015	4-25-2017	Vehicles and traffic amendment	Ch. 327
O-17-016	4-25-2017	Vehicles and traffic amendment	Ch. 327
O-17-017	4-25-2017	Vehicles and traffic amendment	Ch. 327
O-17-018	5-23-2017	Police Department amendment	Ch. 51
O-17-019	5-23-2017	Civil Rights Commission amendment	Ch. 11
O-17-020	5-23-2017	Vehicles and traffic amendment	Ch. 327
O-17-021	6-20-2017	Vehicles and traffic amendment	Ch. 327
O-17-022	6-20-2017	Vehicles and traffic amendment	Ch. 327
O-17-023	6-20-2017	Bond	NCM
O-17-024	7-25-2017	Local improvement	NCM
O-17-025	9-19-2017	Solid waste: garbage, rubbish and refuse amendment	Ch. 292, Art. IV
O-17-026	9-5-2017	Disorderly conduct amendment	Ch. 127
O-17-027	9-19-2017	Vehicles and traffic amendment	Ch. 327
O-17-028	9-19-2017	Vehicles and traffic amendment	Ch. 327
O-17-029	9-19-2017	Vehicles and traffic amendment	Ch. 327
O-17-030	9-19-2017	Vehicles and traffic amendment	Ch. 327
O-17-031	9-19-2017	Local improvement	NCM
O-17-032	9-19-2017	Appropriation	NCM
O-17-033	9-19-2017	Appropriation	NCM
O-17-034	10-24-2017	Bond	NCM
O-17-035	10-24-2017	Bond	NCM
O-17-036	11-13-2017	Zoning Amendment	Ch. 347
O-17-037	11-13-2017	Vehicles and Traffic Amendment	Ch. 327

Enact- ment	Adoption Date	Subject	Disposition
O-17-038			Not Adopted
O-17-039	12-19-2017	Salaries	NCM
O-17-040	12-19-2017	Salaries	NCM
O-17-041	12-19-2017	Salaries	NCM
O-17-042	12-19-2017	Salaries	NCM
O-17-043	12-19-2017	Alcoholic Beverages Amendment	Ch. 74
O-17-044	12-19-2017	Salaries	NCM
O-17-045	12-19-2017	Salaries	NCM
O-17-046	1-9-2018	Redevelopment Plan Amendment	NCM
O-18-001	1-23-2018	Special Improvement Districts: Seymour Street Pedestrian Plaza	Ch. 293, Art. III
O-18-002	1-23-2018	Financial Agreement	NCM
O-18-003	1-23-2018	Financial Agreement	NCM
O-18-004	2-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-005	2-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-006	2-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-007	2-20-2018	Uniform Construction Codes Amendment	Ch. 121
O-18-008	2-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-009	2-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-010	3-20-2018	Zoning Amendment	Ch. 347
O-18-011	3-20-2018	Salaries	NCM
O-18-012	3-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-013	3-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-014	3-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-015	3-20-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-016	3-20-2018	Exceed Budget; Cap Bank	NCM
O-18-017	3-20-2018	Bond	NCM
O-18-018	4-10-2018	Vehicles and Traffic Amendment	Ch. 327
O-18-019	4-10-2018	Appropriation	NCM
O-18-020	5-1-2018	Salaries	NCM
O-18-021	5-1-2018	Salaries	NCM

Enact- ment	Adoption Date	Subject	Disposition
O-18-022			Withdrawn
O-18-023			Withdrawn
O-18-024	5-22-2018	Affordable Housing Amendment	Ch. 65
O-18-025	5-22-2018	Zoning Amendment	Ch. 347
O-18-026	6-12-2018	Energy Aggregation Program	Superseded by Ord. No. O-22-03
O-18-027	6-12-2018	Animals: Animal Control Officers Amendment	Ch. 82, Art. VII
O-18-028	6-12-2018	Salaries	NCM
O-18-029	6-12-2018	Salaries	NCM
O-18-030	6-12-2018	Salaries	NCM
O-18-031	6-12-2018	Affordable Housing Amendment	Ch. 65
O-18-032	7-24-2018	Towing Amendment	Ch. 322
O-18-033	7-24-2018	Taxation: Cancellation of Property Taxes for Disabled Veterans	Ch. 309, Art. VI
O-18-034	8-7-2018	Parking Fee Schedule Amendment	NCM
O-18-035	8-7-2018	Salaries	NCM
O-18-036	8-7-2018	Alcoholic Beverages Amendment	Ch. 74
O-18-037	8-7-2018	Affordable Housing Amendment	Ch. 65
O-18-38			Withdrawn
O-18-039	8-28-2018	Parking: Parking Restrictions for Montclair High School Area Amendment	Ch. 228, Art. I
O-18-040	9-25-2018	Officers and Employees: Municipal Engineer	Ch. 44, Art. VII
O-18-041	9-25-2018	Officers and Employees: Purchasing Agent Amendment	Ch. 44, Art. III
O-18-042	9-25-2018	Easement	NCM
O-18-043	11-27-2018	Land Use Procedures Amendment	Ch. 202
O-18-044	11-27-2018	Parking Lots: Parking Permits Amendment	Ch. 230, Art. I
O-18-045			Not Adopted
O-18-046	12-18-2018	Vehicles and Traffic Amendment	Ch. 327

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O-19-001	6-25-2019	Redevelopment Plan	NCM
O-19-002	2-19-2019	Bond	NCM
O-19-003	2-19-2019	Property, Vacant and Abandoned: Registration and Maintenance Amendment; Abandoned Property List Amendment; Properties Subject to Foreclosure Amendment	Ch. 249, Art. I; Ch. 249, Art. II; Ch. 249, Art. III
O-19-004	2-19-2019	Vehicles and Traffic Amendment	Ch. 327
O-19-005			Not Adopted
O-19-006	3-5-2019	Bond	NCM
O-19-007	3-19-2019	Vehicles and Traffic Amendment	Ch. 327
O-19-008	3-19-2019	Vendors, Mobile: Licensing and Other Regulations Amendment	Ch. 337, Art. I
O-19-009	4-23-2019	Vehicles and Traffic Amendment	Ch. 327
O-19-010	4-2-2019	Exceed Budget; Cap Bank	NCM
O-19-011	4-2-2019	Bond	NCM
O-19-012	4-23-2019	Zoning Amendment	Ch. 347
O-19-013	4-23-2019	Vehicles and Traffic Amendment	Ch. 327
O-19-014	4-23-2019	Parking Fee Schedule Amendment	NCM
O-19-015	5-21-2019	Appropriation	NCM
O-19-016	5-21-2019	Appropriation	NCM
O-19-017	5-21-2019	Bond	NCM
O-19-018	6-11-2019	Land Use Procedures Amendment	Ch. 202
O-19-019	6-11-2019	Land Use Procedures Amendment	Ch. 202
O-19-020	7-9-2019	Zoning Amendment	Ch. 347
O-19-021	11-18-2019	Land Use Procedures Amendment; Zoning Amendment	Ch. 202; Ch. 347
O-19-22	11-18-2019	Environmental Hazards: Single-Use Plastic Bags	Ch. 134, Art. I
O-19-023	7-23-2019	Parking Lots: Parking Permits Amendment	Ch. 230, Art. I
O-19-024	7-23-2019	Project Labor Agreements	Ch. 51A

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O-19-025	7-23-2019	Capital Improvements	NCM
O-19-026	7-23-2019	Parking Fee Schedule Amendment	NCM

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O-19-027	8-20-2019	Vehicles and Traffic Amendment	Ch. 327	52
O-19-028	8-20-2019	Affordable Housing Amendment	Ch. 65	52
O-19-029	9-24-2019	Land Use Procedures Amendment	Ch. 202	52
O-19-030			Withdrawn	52
O-19-031	9-24-2019	Acquisition of Truck	NCM	52
O-19-032			Not Adopted	52
O-19-033	10-15-2019	Salaries	NCM	52
O-19-034	11-18-2019	Drug-Free Zones	Ch. 130	52
O-19-035	11-18-2019	Vehicles and Traffic Amendment	Ch. 327	52
O-19-036	11-18-2019	Police Department Amendment	Ch. 51	52
O-19-037	11-18-2019	Vehicles and Traffic Amendment	Ch. 327	52
O-19-038			Tabled	52
O-19-039	1-6-2020	Salaries	NCM	52
O-20-01	2-18-2020	Bond	NCM	52.1
O-20-02	3-10-2020	Salaries	NCM	52.1
O-20-03	3-10-2020	Flood Damage Prevention	Repealed by Ord. No. O-23-15	52.1
O-20-04	3-24-2020	Exceed Budget; Cap Bank	NCM	52.1
O-20-05	4-7-2020	Rent Regulation	Repealed by Ord. No. O-22-05	52.1
O-20-06	4-21-2020	Salaries	NCM	52.1
O-20-07	4-21-2020	Salaries	NCM	52.1
O-20-08	5-19-2020	Moratorium	NCM	52.1
O-20-09	6-9-2020	Capital Improvements	NCM	53

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O-20-10	6-9-2020	Capital Improvements	NCM	53
O-20-11	6-9-2020	Capital Improvements	NCM	53
O-20-12	6-9-2020	Bond	NCM	53
O-20-13	6-9-2020	Bond	NCM	53
O-20-14	6-9-2020	Bond	NCM	53
O-20-15	6-9-2020	Salaries	NCM	53
O-20-16	6-9-2020	Salaries	NCM	53
O-20-17	6-9-2020	Salaries	NCM	53
O-20-18	6-9-2020	Salaries	NCM	53
O-20-19	8-4-2020	Bond	NCM	53
O-20-20	8-4-2020	Moratorium on Rent Increases Due to Covid-19	NCM	53
O-20-21	10-27-2020	Affordable Housing Amendment	Ch. 65	53
O-20-22	11-16-2020	Land Use Procedures Amendment	Ch. 202	53
O-20-23	11-16-2020	Acquisition of Land	NCM	53
O-20-24	1-5-2021	Moratorium	NCM	54
O-20-25	1-5-2021	Construction Codes, Uniform Amendment	Ch. 121	54
O-21-01	2-16-2021	Noise Amendment	Ch. 217	55
O-21-02	2-16-2021	Stormwater Control	Ch. 295	55
O-21-03	5-18-2021	Zoning Amendment	Ch. 347	56
O-21-04	4-20-2021	Exceed Budget; Cap Bank	NCM	56
O-21-05	5-4-2021	Bond	NCM	56
O-21-06	4-20-2021	Vehicles and Traffic Amendment	Ch. 327	56
O-21-07	4-20-2021	Vehicles and Traffic Amendment	Ch. 327	56
O-21-08	5-4-2021	Affordable Housing Amendment	Ch. 65	56
O-21-09	6-1-2021	Zoning Amendment	Ch. 347	56
O-21-10	5-4-2021	Water Amendment	Ch. 341	56
O-21-11	5-18-2021	Parks and Playgrounds: Park Regulations Amendment	Ch. 234, Art. I	56

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O-21-12	5-18-2021	Vehicles and Traffic Amendment	Ch. 327	56
O-21-13	5-18-2021	Vehicles and Traffic Amendment	Ch. 327	56
O-21-14	7-13-2021	Land Use Procedures Amendment	Ch. 202	56
O-21-15	6-22-2021	Discrimination: Unisex Restrooms	Ch. 21, Art. III	56
O-21-16	6-22-2021	Discrimination: Nondiscrimination by Township Contractors; Nondiscrimination in Municipal Employment	Ch. 21, Art. I; Ch. 21, Art. II	56
O-21-17	8-10-2021	Cannabis	Repealed by Ord. No. O-24-32	56
O-21-18	8-10-2021	Zoning Amendment	Ch. 347	56
O-21-19	8-10-2021	Taxation: Cannabis Tax	Ch. 309, Art. VII	56
O-21-20	8-10-2021	Streets and Sidewalks: Additional Regulations Relating to Streets and Sidewalks Amendment	Ch. 297, Art. VIII	56
O-21-21	8-10-2021	Appropriation	NCM	56
O-21-22	8-10-2021	Appropriation	NCM	58
O-21-23	9-21-2021	Zoning Amendment	Ch. 347	58
O-21-24	10-19-2021	Financial Agreement	NCM	58
O-21-25	10-19-2021	Bond	NCM	58
O-21-26	10-19-2021	Financial Agreement Transfer	NCM	58
O-21-27	1-18-2022	Lease Agreement	NCM	58
O-22-01	1-18-2022	Parking Fee Schedule Amendment	NCM	58
O-22-02			Tabled	
O-22-03	3-15-2022	Energy Aggregation Program	Ch. 25	58
O-22-04	4-5-2022	Vehicles and Traffic Amendment	Ch. 327	58
O-22-05	4-19-2022	Rent Regulation	Ch. 257	57
O-22-06	5-17-2022	Bond	NCM	58

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O-22-07	5-17-2022	Native Vegetation	Ch. 42	58
O-22-08	4-19-2022	Vehicles and Traffic Amendment	Ch. 327	58
O-22-09	5-17-2022	Bond Amendment	NCM	58
O-22-10	6-21-2022	Diversity Inclusion Program	Ch. 7	58
O-22-11	5-17-2022	Cannabis Amendment	Repealed by Ord. No. O-24-32	58
O-22-12	6-13-2022	Bellevue Theatre Redevelopment Plan	NCM	58
O-22-13	6-13-2022	Vehicles and Traffic Amendment	Ch. 327	58
O-22-14	6-13-2022	Stormwater Control Amendment	Ch. 295	58
O-22-15	7-26-2022	Redevelopment Plan Amendment	NCM	59
O-22-16	7-26-2022	Zoning Amendment	Ch. 347	59
O-22-17	7-26-2022	Zoning Amendment	Ch. 347	59
O-22-18	7-26-2022	Appropriation	NCM	59
O-22-19	7-26-2022	Appropriation	NCM	59
O-22-20	8-16-2022	Appropriation	NCM	59
O-22-21	8-16-2022	Vehicles and Traffic Amendment	Ch. 327	59
O-22-22	10-11-2022	Alcoholic Beverages Amendment	Ch. 74	59
O-22-23	2-7-2023	Zoning Amendment	Ch. 347	59
O-22-24	10-25-2022	Redevelopment Plan Amendment	NCM	59
O-22-25	2-21-2023	Animals: Animal Raising and Breeding Amendment	Ch. 82, Art. IV	59
O-22-26	12-20-2022	Animals: Dogs Amendment; Cats Amendment; Sale of Animals	Ch. 82, Art. I; Ch. 82, Art. V; Ch. 82, Art. VIII	59
O-22-27	2-21-2023	Zoning Amendment	Ch. 347	59

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O-22-28	12-20-2022	Property, Vacant and Abandoned: Registration and Maintenance Amendment; Abandoned Property List Amendment; Properties Subject to Foreclosure Amendment	Ch. 249, Art. I; Ch. 249, Art. II; Ch. 249, Art. III	59
O-22-29	10-10-2023	Redevelopment Plan for Lackawanna Plaza	NCM	62
O-22-30	11-14-2022	Vehicles and Traffic Amendment	Ch. 327	59
O-22-31			Number Not Used	59
O-22-32	2-21-2023	Salaries	NCM	59
O-23-01	2-7-2023	Bond	NCM	59
O-23-02	3-14-2023	Bond	NCM	59
O-23-03	2-7-2023	Bond	NCM	59
O-23-04	3-14-2023	Residential Dwelling Rental Relief Fund	Ch. 29A	59
O-23-05			Tabled	59
O-23-06	9-26-2023	Zoning Amendment	Ch. 347	60
O-23-07	2-21-2023	Vehicles and Traffic Amendment	Ch. 327	59
O-23-08	4-12-2023	Zoning Amendment	Ch. 347	59
O-23-09	4-25-2023	Land Use Procedures Amendment	Ch. 202	59
O-23-10	3-27-2023	Vehicles and Traffic Amendment	Ch. 327	59
O-23-11	4-12-2023	Exceed Budget; Cap Bank	NCM	60
O-23-12	4-12-2023	Vehicles and Traffic Amendment	Ch. 327	60
O-23-13	4-12-2023	Vehicles and Traffic Amendment	Ch. 327	60
O-23-14	4-12-2023	Administration of Government Amendment	Ch. 3	60
O-23-15	4-25-2023	Flood Damage Prevention	Ch. 161	60
O-23-16			Tabled	60
O-23-17	6-13-2023	Bond	NCM	60

Enactment	Adoption Date	Subject	Disposition	Supp. No.
O-23-18			Not Adopted	60
O-23-19	7-18-2023	Vehicles and Traffic Amendment	Ch. 327	60
O-23-20	8-15-2023	Acquisition of Land	NCM	60
O-23-21	7-18-2023	Vehicles and Traffic Amendment	Ch. 327	60
O-23-22			Withdrawn	60
O-23-23	8-15-2023	Salaries	NCM	60
O-23-24	11-13-2023	Montclair Center Gateway Phase 1 Redevelopment Plan Amendment	NCM	62
O-23-25	8-15-2023	Vehicles and Traffic Amendment	Ch. 327	60
O-23-26	8-15-2023	Appropriation	NCM	60
O-23-27	8-15-2023	Appropriation	NCM	60
O-23-28	8-15-2023	Appropriation	NCM	60
O-23-29			Withdrawn	60
O-23-30			Withdrawn	60
O-23-31	8-15-2023	Noise Amendment	Ch. 217	61
O-23-32	8-15-2023	Bamboo	Ch. 88	60
O-23-33	9-26-2023	Salaries	NCM	60
O-23-34	9-26-2023	Vehicles and Traffic Amendment	Ch. 327	60
O-23-35	9-26-2023	Leaf Blowers Amendment	Ch. 219	60
O-23-36	10-24-2023	Personnel Regulations: Township Personnel Amendment	Ch. 48, Pt. 1	62
O-23-37	12-5-2023	Vehicles and Traffic Amendment	Ch. 327	62
O-23-38	1-30-2024	Environmental Hazards: Privately Owned Salt Storage	Ch. 134, Art. II	62
O-23-39	12-19-2023	Vehicles and Traffic Amendment	Ch. 327	62
O-23-40	12-19-2023	Personnel Regulations: Township Personnel Amendment	Ch. 48, Pt. 1	62

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O-23-41	12-19-2023	Contracts Repealer; Officers and Employees: Purchasing Agent Amendment	Ch. 18, reference only; Ch. 44, Art. III	62
O-23-42	12-19-2023	Vehicles and Traffic Amendment	Ch. 327	62
O-24-01	2-13-2024	Housing: Lead-Based Paint Inspections	Ch. 190, Art. V	62
O-24-02	2-13-2024	Salaries	NCM	62
O-24-03	2-27-2024	Vehicles and Traffic Amendment	Ch. 327	62
O-24-04	2-27-2024	Salaries	NCM	62
O-24-05			Tabled	
O-24-06	3-12-2024	Salaries	NCM	62
O-24-07	3-26-2024	Salaries	NCM	63
O-24-08	4-10-2024	Vehicles and Traffic Amendment	Ch. 327	63
O-24-09	5-23-2024	Lackawanna Plaza Redevelopment Plan)	NCM	64
O-24-10	4-24-2024	Lease Agreement	NCM	64
O-24-11	4-24-2024	Vehicles and Traffic Amendment	Ch. 327	64
O-24-12			Not Adopted	
O-24-13	5-23-2024	Rent Regulation Amendment	Ch. 257	64
O-24-14	5-23-2024	Health Standards Amendment	Ch. 186	64
O-24-15			Tabled	
O-24-16			Tabled	
O-24-17			Pending	
O-24-18	6-11-2024	Bond	NCM	64
O-24-19			Tabled	
O-24-20	6-11-2024	Exceed Budget; Cap Bank	NCM	64
O-24-21	6-11-2024	Vehicles and Traffic Amendment	Ch. 327	64
O-24-22	6-11-2024	Stormwater Control Amendment	Ch. 295	64
O-24-23	6-11-2024	Bond	NCM	64

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O-24-24	6-11-2024	Bond	NCM	64
O-24-25			Tabled	
O-24-26	8-13-2024	Appropriation	NCM	65
O-24-27	8-13-2024	Appropriation	NCM	65
O-24-28	8-13-2024	Appropriation	NCM	65
O-24-29			Withdrawn	
O-24-30	9-24-2024	Vehicles and Traffic Amendment	Ch. 327	65
O-24-31	9-24-2024	Vehicles and Traffic Amendment	Ch. 327	65
O-24-32	10-8-2024	Cannabis	Ch. 110	66
O-24-33			Tabled	
O-24-34	11-26-2024	Vehicles and Traffic Amendment	Ch. 327	66
O-24-35	12-17-2024	Land Use Procedures Amendment; Zoning Amendment	Ch. 202; Ch. 347	66
O-24-36	12-17-2024	Environmental Hazards: Single-Use Food and Beverage Items	Ch. 134, Art. III	66
O-24-37	12-17-2024	Vehicles and Traffic Amendment	Ch. 327	66
O-25-01	1-28-2025	Flags: Display of Flags on Township Flagpoles	Ch. 159, Art. I	66
O-25-02	3-11-2025	Stormwater Control Amendment	Ch. 295	67
O-25-03			Tabled	
O-25-04	2-25-2025	Construction Codes, Uniform Amendment	Ch. 121	67
O-25-05	3-11-2025	Streets and Sidewalks: Curbs, Sidewalks and Driveways Amendment	Ch. 297, Art. I	67
O-25-06	3-11-2025	Salaries	NCM	67
O-25-07	4-8-2025	Vehicles and Traffic Amendment	Ch. 327	68
O-25-08	4-8-2025	Vehicles and Traffic Amendment	Ch. 327	68

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O-25-09			Withdrawn	
O-25-10	4-22-2025	Zoning Amendment	Ch. 347	68
O-25-11	4-22-2025	COLA	NCM	68
O-25-12	4-22-2025	Bond	NCM	68
O-25-13	5-6-2025	Streets and Sidewalks: Complete Streets Oversight Board; Complete Streets Oversight Board	Ch. 297, Art. IX; Ch. 297, Art. X	68
O-25-14	5-6-2025	Taxation: Cancellation of Property Taxes for Disabled Veterans Amendment	Ch. 309, Art. VI	68
O-25-15	5-6-2025	Vehicles and Traffic Amendment	Ch. 327	68
O-25-16	5-6-2025	Vehicles and Traffic Amendment	Ch. 327	68
O-25-17	6-3-2025	Disorderly Conduct Amendment	Ch. 127	69
O-25-18	6-3-2025	Parks and Playgrounds: Park Regulations Amendment	Ch. 234, Art. I	69
O-25-19	6-3-2025	Water: Facilities; Use; Rates and Charges Amendment	Ch. 341	69
O-25-20	7-22-2025	Vehicles and Traffic Amendment	Ch. 327	69
O-25-21	7-22-2025	Vehicles and Traffic Amendment	Ch. 327	69
O-25-22	7-22-2025	Environmental Hazards: Use of Synthetic Pesticide on Township Owned Land	Ch. 134, Art. IV	69
O-25-23			Not adopted	69
O-25-24	7-22-2025	Administration of Government: Township of Montclair Clary Anderson Arena Utility	Ch. 3, Art. XIVB	69
O-25-25	7-22-2025	Parks and Playgrounds: Rents and Fees Amendment	Ch. 234, Art. II	69
O-25-26	7-22-2025	Salaries	NCM	69
O-25-27	8-12-2025	Water: Facilities; Use; Rates and Charges Amendment	Ch. 341	69

Enactment	Adoption Date	Subject	Disposition	Supp. No.
O-25-28	8-12-2025	Sewers: Sewer Connections Amendment	Ch. 269, Art. II	69
O-25-29	8-12-2025	Zoning Amendment	Ch. 347	69
O-25-30	8-12-2025	Garden State C-PACE Program	Ch. 28	69
O-25-31	8-12-2025	Vehicles and Traffic Amendment	Ch. 327	70
O-25-32	8-12-2025	Vehicles and Traffic Amendment	Ch. 327	70
O-25-33		Appropriation	NCM	70
O-25-34		Appropriation	NCM	70
O-25-35		Appropriation	NCM	70
O-25-36		Bond	NCM	70
O-25-37		Bond	NCM	70
O-25-38		Bond	NCM	70
O-25-39	9-30-2025	Vehicles and Traffic Amendment	Ch. 327	70
O-25-40	9-30-2025	Fees: Credit Card Transaction Service Fee	Ch. 136, Art. III	70
O-25-41	11-12-2025	Tax Map	NCM	71
O-25-42	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-43	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-44	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-45	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-46	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-47	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-48	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-49	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71

Enactment	Adoption Date	Subject	Disposition	Supp. No.
O-25-50	11-12-2025	Parking Lots: Parking Permits Amendment; Crescent Deck at Montclair Center Amendment; Lloyd Road Parking Lot Amendment	Ch. 230, Art. I; Ch. 230, Art. II; Ch. 230, Art. IV	71
O-25-51	11-12-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-52	11-12-2025	Water: Facilities; Use; Rates and Charges Amendment	Ch. 341	71
O-25-53			Not adopted	71
O-25-54	12-16-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-55	12-16-2025	Zoning Amendment	Ch. 347	71
O-25-56	12-16-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-57	12-16-2025	Administration of Government Amendment	Ch. 3	71
O-25-58	12-16-2025	Administration of Government Amendment	Ch. 3	71
O-25-59	12-16-2025	Administration of Government Amendment	Ch. 3	71
O-25-60	12-16-2025	Administration of Government Amendment	Ch. 3	71
O-25-61	12-16-2025	Bond	NCM	71
O-25-62	12-16-2025	Vehicles and Traffic Amendment	Ch. 327	71
O-25-63	1-27-2026	Vehicles and Traffic Amendment	Repealed by Ord. No. O-26-22	71
O-25-64	1-27-2026	Vehicles and Traffic Amendment	Ch. 327	71
O-25-65	1-27-2026	Vehicles and Traffic Amendment	Ch. 327	71
O-26-01	2-24-2026	Water: Facilities; Use; Rates and Charges Amendment	Ch. 341	71
O-26-02	2-24-2026	Vehicles and Traffic Amendment	Ch. 327	71
O-26-04	3-12-2026	Affordable Housing Amendment	Ch. 65	72

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O-26-03	3-24-2026	Financial Agreement	NCM	72
O-26-05	3-12-2026	Land Use Procedures Amendment	Ch. 202	72
O-26-06	3-12-2026	Zoning Amendment	Ch. 347	72
O-26-07	4-7-2026	Animals: Native Wildlife Management	Ch. 82, Art. IX	72
O-26-08	4-21-2026	Zoning Amendment	Ch. 347	72
O-26-09	4-21-2026	Cannabis Amendment	Ch. 110	72
O-26-10	4-7-2026	Exceed Budget; Cap Bank	NCM	72
O-26-11	4-21-2026	Montclair Trust Act	Ch. 212	72
O-26-12	5-5-2026	Zoning Amendment	Ch. 347	72
O-26-13	5-19-2026	Vehicles and Traffic Amendment	Ch. 327	72
O-26-14	5-19-2026	Vehicles and Traffic Amendment	Ch. 327	72
O-26-15	7-14-2026	Water Amendment	Ch. 341	72
O-26-16	5-19-2026	Parking Lots: Parking Permits Amendment	Ch. 230, Art. I	72
O-26-17	5-19-2026	Vehicles and Traffic Amendment	Ch. 327	72
O-26-18	5-19-2026	Vehicles and Traffic Amendment	Ch. 327	72
O-26-19	5-19-2026	Vehicles and Traffic Amendment	Ch. 327	72
O-26-20	5-19-2026	Parks and Playgrounds: Rents and Fees Amendment	Ch. 234, Art. II	72
O-26-21	6-9-2026	Salaries	NCM	72
O-26-22	7-14-2026	Parking: Temporary No-Parking Signs; Vehicles and Traffic Amendment	Ch. 228, Art. II; Ch. 327	72
O-26-23	7-14-2026	Water Amendment	Ch. 341	72
O-26-24	7-14-2026	Land Use Procedures Amendment	Ch. 202	72
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