

**BOROUGH OF HIGHLAND PARK**

**ORDINANCE NO. 22-2055**

**AN ORDINANCE BY THE BOROUGH OF HIGHLAND PARK, MIDDLESEX COUNTY, NEW JERSEY AMENDING CHAPTER 230, LAND DEVELOPMENT CONCERNING: PARKING REGULATIONS FOR ALL ZONING DISTRICTS; AND BULK REGULATIONS AND RESIDENTIAL DESIGN STANDARDS FOR SINGLE- AND TWO-FAMILY DWELLINGS**

**BE IT ORDAINED** by the Borough Council of the Borough of Highland Park that the following amendments to Chapter 230 are hereby enacted (underlined material is new and is added; [bracketed] material is deleted):

**SECTION 1.** Section 230-3 of the “code of the Borough of Highland Park” concerning Definitions is hereby amended and shall read as follows:

**BLOCK**

The area bounded by one or more streets or a municipal boundary of sufficient size to accommodate a lot or lots of the minimum size required in this chapter. [For purposes of defining the geographical area upon which to calculate the percent of existing single-family detached dwellings which have garage doors facing the street, the area of calculation shall include that portion of the block upon which the garage is to face and be located calculated to the nearest intersecting streets and/or municipal boundary(ies) on both sides of the proposed garage as well as that portion of the block across the street whose homes face the proposed garage calculated to the nearest intersecting streets and/or municipal boundary(ies). If the garage is to be located on a block less than 600 feet in length, then the calculations would include those blocks on either side of the block upon which the garage is to be located as well as that block across the street.]

**SECTION 2.** Section 230-82 of the “Code of the Borough of Highland Park” concerning Height is hereby deleted and reserved.

**SECTION 3.** Section 230-83 of the “Code of the Borough of Highland Park” concerning Nonconforming uses, structures or lots is hereby deleted and reserved.

**SECTION 4.** Section 230-91 of the “Code of the Borough of Highland Park” concerning Accessory buildings is hereby deleted and reserved.

**SECTION 5.** Section 230-122.1 of the “Code of the Borough of Highland Park” concerning Attached garages is hereby deleted.

**SECTION 6.** Section 230-132 of the “Code of the Borough of Highland Park” concerning certain regulations in the RA Single-Family Residential Zone is hereby amended and shall read as follows:

D. Bulk regulations.

- (1) The requirements for this district of lot area and width, yard dimensions, building coverage, and height shall be listed in the bulk schedule for the RA Zone contained in § 230-149 of this chapter. [Any handicapped ramp leading to the ground floor shall be exempt from the Zoning Bulk Schedule requirements contained in § 230-149 of this chapter.]

F. Parking.

- (1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).

[Off-street parking space with appropriate access thereto shall be provided on the same lot it is intended to serve, in accordance with the following minimum standards.

- (a) Single-family detached dwelling: two off-street parking spaces for each dwelling unit.]

**SECTION 7.** Section 230-133 of the “Code of the Borough of Highland Park” concerning certain regulations in the RB Two-Family Residential Zone is hereby amended and shall read as follows:

D. Bulk regulations.

- (1) The requirements for this district of lot area and width, yard dimensions, building coverage, and height shall be listed in the bulk schedule contained in § 230-149 of this chapter.

- (a) Single-family detached dwelling units: as regulated by the RA Zone.

- (b) Two-family dwelling units: as regulated by the RB Zone.

- [ (2) Any handicapped ramp leading to the ground floor shall be exempt from the Zoning Bulk Schedule requirements contained in § 230-149 of this chapter.]

F. Parking.

- (1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).

[Off-street parking space with appropriate access thereto shall be provided on the same lot it is intended to serve, in accordance with the following minimum standards:

- (1) Single-family detached dwelling: two off-street parking spaces for each dwelling unit.

- (2) Two-family dwellings: two off-street parking spaces for each dwelling unit.]

**SECTION 8.** Section 230-134 of the “Code of the Borough of Highland Park” concerning certain regulations in the RA-E Single-Family Residential – Ecological Preservation Zone is hereby amended and shall read as follows:

G. Parking.

- (1) [Off-street p]Parking [space with appropriate access thereto] for residential uses shall be [provided on the same lot it is intended to serve] required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-[4]1 et seq.).

**SECTION 9.** Section 230-135 of the “Code of the Borough of Highland Park” concerning certain regulations in the RM-G Residential Multifamily – Garden Apartment Zone is hereby amended and shall read as follows:

A. Permitted principal uses.

- (1) Garden apartments.

- (2) Two-family [planned] residential dwellings[ as per the RC designation].

- (3) Single-family residential dwellings.

D. Bulk regulations.

- (1) The requirements for this district of lot area and width, yard dimensions, building coverage and height shall be listed in the bulk schedule contained in § 230-149 of this chapter.

- (a) Garden apartments: as regulated by the RM-G Zone.
- (b) Two-family dwellings: as regulated by the R[C]B Zone.
- (c) Single-family dwellings: as regulated by the RA Zone.

G. Parking.

- (1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).

[Off-street parking space with appropriate access thereto shall be provided on the same lot or tract it is intended to serve, in accordance with the following minimum standards.

- (a) Garden apartments: two off-street parking spaces per dwelling unit.
- (b) Two-family planned dwellings: two off-street parking spaces per dwelling unit.
- (c) Single-family dwellings: two off-street parking spaces per dwelling unit.]

**SECTION 10.** Section 230-136 of the “Code of the Borough of Highland Park” concerning certain regulations in the RM-T Residential Multifamily – Townhouse Zone is hereby amended and shall read as follows:

A. Permitted principal uses.

- (1) Townhouse dwelling units.
- (2) Two-family [planned] residential dwelling units[, as per the RC designation].
- (3) Single-family residential dwelling units.

D. Bulk regulations.

- (1) The requirements for this district of lot area and width, yard dimensions, building coverage and height shall be listed in the bulk schedule contained in § 230-149 of this chapter.
  - (a) Townhouses: as regulated by the RM-T Zone.
  - (b) Two-family dwellings: as regulated by the R[C]B Zone, except that density regulations of RM-T Zone shall apply.
  - (c) Single-family dwellings: as regulated by the RA Zone.

- (2) NO CHANGES

G. Parking.

- (1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).

[Off-street parking space with appropriate access thereto shall be provided on the same lot or tract it is intended to serve, in accordance with the following minimum standards.

- (a) Townhouse dwelling: two off-street parking spaces per dwelling unit.

- (b) Two-family planned dwelling: two off-street parking spaces per dwelling unit.
- (c) Single-family dwellings: two off-street parking spaces per dwelling unit.]

**SECTION 11.** Section 230-137 of the “Code of the Borough of Highland Park” concerning certain regulations in the RM-M Residential Multifamily – Mid-Rise Zone is hereby amended and shall read as follows:

F. Parking and other requirements.

- (1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).

[Off-street parking space with appropriate access thereto shall be provided on the same lot or tract it is intended to serve, in accordance with the following minimum standards.

- (a) Mid-rise residential structure: two off-street parking spaces per dwelling unit.
  - (b) Townhouse dwelling: two off-street parking spaces per dwelling unit.
  - (c) Single-family residential dwelling: two off-street parking spaces per dwelling.]
- (2) All elevators included in any project shall provide adequate width and length and shall provide adequate door width for use by any stretchers or other devices used by the Highland Park emergency service agencies.

G. Permitted signs.

- (1) All signs as specified in the RA Zone.
- (2) All signs as specified in the R[C]B Zone.

**SECTION 12.** Section 230-138 of the “Code of the Borough of Highland Park” concerning certain regulations in the RMT-W Residential Multifamily Townhouse – Waterfront Preservation Zone is hereby amended and shall read as follows:

A. Principal permitted uses.

- (1) [Planned t]Two-family dwellings[, as per the RC Zone designation], including provision of one marina slip per dwelling unit.
- (2) Townhouse dwelling units, including provision of one marina slip per dwelling unit.
- (3) Marina facilities related to yacht, boat, motorboat basin and/or marina and/or dockage, only when designed in conjunction with a permitted residential development project, and subject to the conditions as set forth in Subsection G herein.

D. Bulk regulations.

- (1) The requirements for this district of lot area and width, yard dimensions, building coverage and height shall be listed in the bulk schedule contained in § 230-149 of this chapter.
  - (a) Townhouses: as regulated by the RM-T Zone, except as specified in Subsection F of this section.

(b) Two-family dwellings: as regulated by the R[C]B Zone, except that density regulations of RMT-W shall apply.

(2) NO CHANGES

H. Parking.

(1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).

[Off-street parking space with appropriate access thereto shall be provided on the same lot or tract it is intended to serve, in accordance with the following minimum standards.

(a) Townhouse dwelling: two off-street parking spaces per dwelling unit.

(b) Two-family planned dwelling: two off-street parking spaces per dwelling unit.]

(2) Parking for non-residential uses shall be required in accordance with the following minimum standards:

([c]a) Retail and service establishments: one parking space for each 300 square feet of gross floor area of the establishment.

([d]b) Leased marina slips: 1 1/4 parking spaces for each leased slip.

I. Permitted signs.

(1) All signs as specified in the R[C]B Zone.

**SECTION 13.** Section 230-139 of the “Code of the Borough of Highland Park” concerning certain regulations in the RMT-H Residential Multifamily Townhouse – Historic Preservation Zone is hereby amended and shall read as follows:

B. Permitted principal uses.

(1) Townhouse dwelling units.

(2) Two-family [planned] residential dwelling units [as per the RC designation].

(3) Single-family residential dwelling units.

(4) Ad[o]aptive reuse of existing historic structures to be preserved.

(5) Mid-rise residential apartment structures (three to seven stories in height).

(6) Office uses, including medical and dental, in existing structures which are deemed to be of a historical nature and/or architecturally significant.

(7) Artist and/or photography studios and/or offices.

E. Bulk regulations.

(1) The requirements for this district of lot area and width, yard dimensions, building coverage and height shall be listed in the bulk schedule contained in § 230-149 of the chapter.

(a) Townhouses: as regulated by the RMT-H Zone.

(b) Two-family dwellings: as regulated by the R[C]B Zone, except that density regulations of RMT-H shall apply.

- (c) Single-family dwellings: as regulated by the RA Zone, except that density regulations of RMT-H shall apply.
- (d) Mid-rise buildings: as regulated by the RMT-H Zone.
- (e) Offices: as regulated by the RMT-H Zone.
- (f) Maximum floor area ratio for permitted offices and studios: .028.

(2) NO CHANGES

I. Parking.

(1) [Off-street p]Parking [space with appropriate access thereto shall be provided on the same lot or tract it is intended to serve, in accordance with the following minimum standards:

(a) F]for residential uses[: parking standards as per] shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.)[ shall apply].

(2) Parking for non-residential uses shall be required in accordance with the following minimum standards:

([b]a) For office uses: one parking space per 250 square feet of gross floor area.

([c]b) For medical and dental offices: one space per every 175 square feet of gross floor area or five spaces for each doctor or dentist, plus one additional space for each employee, whichever is greater.

**SECTION 14.** Section 230-140 of the “Code of the Borough of Highland Park” concerning certain regulations in the CBD Central Business District Zone is hereby amended and shall read as follows:

G. Off-street parking and loading.

(1) Parking and loading requirements.

(a) Public and private parking lots are permitted.

(b) Off-street loading berths for all retail and commercial establishments having a gross floor area in excess of 10,000 square feet: one loading space for every 10,000 square feet or fraction thereof of gross floor area.

(c) Parking requirements may be met in the CBD Zone through a shared parking arrangement between compatible uses. The off-site parking shall be located within two blocks of the subject property. Documentation shall be provided to support the feasibility of shared parking, including an analysis of the uses sharing the parking and the peak usage periods for each, hours of operation of uses proposed to share the parking, and lot capacity (number of spaces). A written contractual arrangement shall be secured for a minimum three-year period, with a renewable option between parties.

(d) Central Business District parking requirements:

<b>Use</b>	<b>Parking Requirement</b>
Residential uses	*
Permitted businesses/personal services	1/450 square feet gross floor area
Restaurants	1 per 3 seats

Banks	1/350 square feet gross floor area
Medical offices	1/250 square feet gross floor area
Retail uses	1/500 square feet gross floor area
Artist studio	1/1,000 square feet gross floor area
Artistic instruction space	1/450 square feet gross floor area

\* Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) [do not specifically address parking requirements for residential units in mixed-use buildings in a downtown with transit and pedestrian facilities. A waiver of the RSIS standards may be warranted based on downtown conditions].

(2) NO CHANGES

**SECTION 15.** Section 230-142 of the “Code of the Borough of Highland Park” concerning certain regulations in the PO Professional Office Zone is hereby amended and shall read as follows:

E. Off-street parking and loading.

- (1) Parking for residential uses shall be required in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.).
- (2) Parking for non-residential uses shall be required in accordance with the following minimum standards:

([2]a) For medical professional offices, off-street parking must be provided at the rate of three off-street parking spaces for each professional staff member plus one space for each permanent employee or one parking space for each 100 square feet of gross floor area, whichever is greater.

([2]b) For permitted business, office, laboratory and service establishments: one parking space for each 300 square feet of gross floor area.

**SECTION 16.** Section 230-149 of the “Code of the Borough of Highland Park” concerning the Zoning Bulk Schedule Requirements attachment (Attachment 3) is hereby amended as follows:

- Page 1 entitled “230 Attachment 3:1”
  - DELETE row “Minimum off-street parking spaces/dwelling unit”
  - DELETE row “Minimum distance between buildings (feet)”
  - DELETE footnote #2 “Maximum lot coverage for the RA Zone will be increased by 5% for the addition of decks only.”
  - DELETE footnote #3 “See N.J.A.C. 5:21-4”
  - DELETE rows “Accessory Buildings,” “Minimum side yard (feet),” “Minimum rear yard (feet),” and “Maximum height (feet)” at the bottom of the chart
- Page 2 entitled “230 Attachment 3:2”
  - DELETE row “Minimum off-street parking spaces/dwelling unit”
  - DELETE row “Minimum distance between buildings (feet)”
  - DELETE rows “Accessory Buildings,” “Minimum side yard (feet),” “Minimum rear yard (feet),” and “Maximum height (feet)” at the bottom of the chart
- Page 3 entitled “230 Attachment 3:3”
  - DELETE row “Minimum off-street parking spaces/dwelling unit”
  - DELETE row “Minimum distance between buildings (feet)”
  - DELETE rows “Minimum side yard (feet),” “Minimum rear yard (feet),” and “Maximum height (feet)” at the bottom of the chart

**SECTION 17.** Article XV, Zoning Regulations, of the “Code of the Borough of Highland Park” is hereby amended to add a new Section 230-149.1 – Supplementary regulations:

§ 230-149.1 **Supplementary regulations.**

A. Permitted projections.

- (1) Non-enclosed one-story porches, porticos, stoops and entrance platforms leading to the front entrance on the ground floor may project no more than eight (8) feet into a front yard setback.
- (2) Non-enclosed one-story porches, porticos, stoops, entrance platforms and uncovered decks leading to the basement, cellar or the ground floor may project no more than four (4) feet into a side or rear yard setback.
- (3) Non-enclosed one-story porte-cochere or carport may project no more than four (4) feet into a side or rear yard setback.
- (4) Cornices, eaves, cantilevered roofs, gutters, downspouts, awnings, canopies, bay windows and uncovered balconies may project no more than three (3) feet into any yard setback.
- (5) Belt courses, windowsills and other similar ornamental features may project no more than nine (9) inches into any yard setback.
- (6) Window wells may project no more than five (5) feet into any yard setback.
- (7) Fire escapes may project no more than five (5) feet into a side or rear yard setback.
- (8) In no case shall a permitted projection attached: (a) to any principal or accessory structure be less than five (5) feet from a front lot line; (b) to any principal structure be less than three (3) feet from a side or rear lot line; and (c) to any accessory structure be less than one (1) foot from a side or rear lot line.
- (9) Accessible ramps and steps leading to a porch, portico, stoop or other entrance on the ground floor may project into any yard setback without limitation, provided that such structures do not encroach upon the public right-of-way and adjoining properties.
- (10) Awnings, canopies and marquees associated with a non-residential use on the ground floor may project into the public right-of-way without limitation, provided that such structures have a vertical clearance of no less than eight (8) feet and are set back no less than four (4) feet from the face of curb along the street.

B. Height exemptions

- (1) The height limitations of this chapter shall not apply to fire walls, parapet walls, cornices and other similar elements, provided that such shall not exceed the applicable height requirements by more than three (3) feet.
- (2) The height limitations of this chapter shall not apply to building service equipment (e.g., condensers, cooling towers, exhaust fans, and other mechanical equipment), solar panels, bulkheads, elevator penthouses, stair enclosures, roof access stairwells, skylights or atrium structures, and architectural appurtenances (e.g., chimneys, cupolas, steeples, belfries, spires, and other similar elements), provided that such shall not exceed the applicable height requirements by more than 10 feet.

C. Minimum separation distance from seasonal high water table elevation.

The following provisions shall apply to all applications involving the construction, reconstruction, or addition to a single- or two-family dwelling. In the case of an application involving reconstruction or addition of less than 500 square feet of building footprint, the following provisions may be waived at the determination of the Zoning Official, Borough Engineer, or the Board having jurisdiction.



- (1) No less than two (2) test pits shall be completed for up to 5,000 square feet of building footprint, and no less than one (1) additional test pit shall be completed for each additional 5,000 square feet of building footprint or part thereof.
- (2) Test pits shall be completed within 15 feet of the perimeter of the footprint of the proposed structure and/or within the area of any proposed recharge facility.
- (3) Test pits shall extend to a depth of no less than three (3) feet below the proposed lowest finished floor elevation, basement floor, cellar floor, crawl space floor, slab on grade construction, and the bottom of any proposed recharge facility. The results of the test pits and permeability tests for recharge facilities shall indicate the nature of the subsoil conditions, the permeability test results, and the seasonal high water table elevation, and shall be provided in a report that is signed and sealed by a New Jersey licensed professional engineer.
- (4) The separation distance between the seasonal high water table elevation and the proposed lowest finished floor elevation, basement floor, cellar floor, crawl space floor, slab on grade construction, and the bottom of any recharge facility shall be no less than two (2) feet.

D. Maximum separation distance from grade.

The following provisions shall apply to all applications involving the construction of a single- or two-family dwelling.

- (1) The separation distance between the finished floor elevation of the ground floor (excluding an attached garage) and the average finish grade, or preconstruction grade, whichever is lower in elevation, as measured along the front wall of the structure closest to the street, shall not exceed four (4) feet.

**SECTION 18.** Article XV, Zoning Regulations, of the “Code of the Borough of Highland Park” is hereby amended to add a new Section 230-149.2 – Dynamic bulk requirements for single- and two-family dwellings:

**§ 230-149.2 Dynamic bulk requirements for single- and two-family dwellings.**

A. Prevailing front yard setback

- (1) Front yard setbacks for lots involved in any site plan, subdivision development or individual application involving a new single- or two-family dwelling shall be within two (2) feet of the average setback distance of existing buildings located immediately adjacent to the lot on the same side of the street in the same block. Setbacks shall be measured to the nearest part of the dwelling excluding porches, porticos, and stoops.
- (2) In no case shall the front yard setback be less than the setback distance of such existing buildings located immediately adjacent to the lot or be less than 10 feet.
- (3) In the case where the adjacent lot is a vacant lot, such lot shall be disregarded and the existing building located immediately adjacent to the vacant lot shall be utilized, provided it is located on the same side of the street in the same block.
- (4) In the case where the adjacent lot is a vacant corner lot, such lot shall be disregarded and the existing building located immediately adjacent to the other adjacent lot shall be utilized, provided it is located on the same side of the street in the same block.
- (5) An individual application for an addition to a single- or two-family dwelling shall not be required to, but may, utilize the prevailing front yard as permitted above.

B. Proportional side yard setbacks

- (1) Side yard setbacks shall be proportional to the width of the lot, as follows:

<b>Lot Width</b>	<b>Single</b>	<b>Combined</b>
Less than 40 feet	5 feet	15 feet
40 feet to less than 50 feet	6 feet	16 feet
50 feet to less than 60 feet	7 feet	17 feet
60 feet to less than 80 feet	8 feet	18 feet
80 feet to less than 100 feet	10 feet	20 feet
100 feet and greater	10 feet	25 feet

C. Proportional lot coverage & impervious coverage

- (1) Lot coverage and impervious coverage shall be proportional to the area of the lot, as follows:

<b>Lot Area</b>	<b>Lot</b>	<b>Impervious</b>
Less than 4,000 square feet	30.0%	45.0%
4,000 square feet to less than 6,000 square feet	30.0%	42.5%
6,000 square feet to less than 8,000 square feet	30.0%	40.0%
8,000 square feet to less than 10,000 square feet	27.5%	37.5%
10,000 square feet and greater	25.0%	35.0%

D. Lot coverage and impervious coverage exemptions

- (1) The following shall be exempt from the calculations for lot coverage and impervious coverage:
- (a) Mechanical equipment, not to exceed 100 square feet in the aggregate. Any additional square footage beyond the first 100 square feet in the aggregate shall be included in the calculations for lot coverage and impervious coverage.
  - (b) Non-enclosed one-story porch, porticos, stoops and entrance platforms leading to the front entrance on the ground floor, not to exceed 160 square feet in the aggregate. Any additional square footage beyond the first 160 square feet in the aggregate shall be included in the calculations for lot coverage and impervious coverage.
  - (c) Uncovered decks leading to the basement, cellar or ground floor, not to exceed 200 square feet in the aggregate. Any additional square footage beyond the first 200 square feet in the aggregate shall be included in the calculations for lot coverage and impervious coverage.
  - (d) Detached garages located behind the rear wall of the dwelling, not to exceed 240 square feet in the aggregate. Any additional square footage beyond the first 240 square feet in the aggregate shall be included in the calculations for lot coverage and impervious coverage.
  - (e) Pervious and/or paver patios at grade, not to exceed 200 square feet in the aggregate. Any additional square footage beyond the first 200 square feet in the aggregate shall be included in the calculation for impervious coverage.
  - (f) In no case shall all of the above exemptions exceed a total of 500 square feet in the aggregate. Any additional square footage beyond the first 500 square feet in the aggregate shall be included in the calculations for lot coverage and/or impervious coverage.
- (2) Accessible ramps leading to the front entrance on the ground floor shall be exempt from the calculations for lot coverage and impervious coverage, without limitation.

**SECTION 19.** Article XV, Zoning Regulations, of the “Code of the Borough of Highland Park” is hereby amended to add a new Section 230-149.3 – Nonconforming uses, structures or lots:

**§ 230-149.3 Nonconforming uses, structures or lots.**

The lawful use of land or structures existing when this chapter was adopted may be continued on the lot or in the structure although they may not conform to this chapter, and any such structure may be restored or repaired in the event of partial destruction thereof; provided, however, that none shall be enlarged, extended, relocated, converted to another use or altered, except in conformity with this chapter and as permitted below. Land on which a nonconforming use or structure is located and any nonconforming lot shall not be subdivided or resubdivided so as to be made more nonconforming in any manner.

**A. General provisions.**

- (1) **Abandonment.** A nonconforming use shall be considered abandoned if it is terminated by the owner; if a nonconforming use involving a structure is discontinued; or if a nonconforming use of land without structure(s) ceases. The subsequent use of the abandoned building, structure and/or land shall be in conformity with this chapter.
- (2) **Conversion to permitted use.** Any nonconforming use, structure or lot may be changed to conform to this chapter but shall not be changed back to a nonconforming status.
- (3) **Maintenance** may be performed on a nonconforming use, structure or lot, provided the maintenance work does not change the use, expand the building or the functional use of the building, increase the area of a lot used for a nonconforming purpose or increase the nonconformity in any manner.
- (4) **Restoration and repairs.**
  - (a) Any nonconforming use or structure which has been condemned or damaged by fire, explosion, flood, windstorm or act of God shall be examined by the Code Enforcement Officer. If in the Code Enforcement Officer’s opinion the value of repairing the condition is greater than 50% of the value of replacing the entire structure, it shall be considered completely destroyed and may be rebuilt to the original specifications only upon approval of a use variance as provided by this chapter.
  - (b) Where the value of repairing the condition is determined to be less than or equal to 50% of the value of replacing the entire structure, the nonconforming use or structure may be rebuilt and used for the same purpose as before, provided it does not exceed the area, bulk and height of the original structure.
  - (c) The percent damaged or condemned shall be the current replacement costs of the portion damaged or condemned computed as a percentage of the current replacement cost of the entire structure, neither to include the cost of the foundation unless the foundation is damaged or condemned.
- (5) **Sale.** Any nonconforming use, structure or lot may be sold and continue to function in the same nonconforming manner.

**B. Nonconforming lots.**

- (1) A permitted single- or two-family dwelling on a lot that is nonconforming with respect to lot area, lot width or lot depth may be altered or enlarged and an accessory structure may be constructed, altered or enlarged without an appeal for variance relief, provided that all other provisions of this chapter are complied with.

C. Nonconforming yard setbacks.

- (1) A permitted single- or two-family dwelling that is nonconforming with respect to yard setbacks may be altered or enlarged without an appeal for variance relief, provided that such alteration or enlargement does not affect or increase the nonconformity, except where permitted as follows:
  - (a) The alteration or enlargement involves the extension of an existing exterior side wall with a nonconforming side yard setback that is no less than 50% of the individual side yard setback requirement. In no case shall an individual side yard setback be permitted to be less than three (3) feet from a side or rear lot line.
  - (b) The alteration or enlargement involves the extension of an existing exterior side wall with a nonconforming side yard setback that is no less than 75% of the combined side yard setback requirement.
  - (c) The alteration or enlargement within the setback area shall be limited to 15 feet in length and one (1) story in height at the ground floor or second floor. These provisions shall not apply to two-story additions or additions involving the third floor.

D. Nonconforming coverage.

- (1) A permitted single- or two-family dwelling on a lot that is nonconforming with respect to lot coverage or impervious coverage may be altered or enlarged without an appeal for variance relief, provided that such alteration or enlargement does not affect or increase the nonconformity.

E. Nonconforming height.

- (1) A permitted single- or two-family dwelling that is nonconforming with respect to height may be altered or enlarged without an appeal for variance relief, provided that such alteration or enlargement does not affect or increase the nonconformity.

**SECTION 20.** Article XV, Zoning Regulations, of the “Code of the Borough of Highland Park” is hereby amended to add a new Section 230-149.4 – Residential Design Provisions for Single- and Two-Family Dwellings and which section shall include the standards and illustrations as set forth in the Residential Form-Based Code, provided in the Addendum to this ordinance.

**§ 230-149.4 Residential design provisions for single- and two-family dwellings.**

- A. Residential design standards and illustrations shall be as provided in the Residential Form-Based Code.

RESIDENTIAL FORM-BASED CODE to be codified in full.

- B. Those design standards and illustrations contained in subsections A. through O. pertaining to residential building design and landscape design as contained therein shall apply to all applications involving construction, reconstruction or addition to a single- and two-family detached dwelling. In the case of an application involving reconstruction or addition of less than 500 square feet of building footprint, the following standards may be waived at the determination of the Zoning Official or the Board having jurisdiction.
- C. Those design standards and illustrations contained in subsection P. pertaining to driveway location and design as contained therein shall apply to all applications involving construction, reconstruction or expansion to driveways.

**SECTION 21.** Article XV, Zoning Regulations, of the “Code of the Borough of Highland Park” is hereby amended to add a new Section 230-149.5 – Accessory structures:

§ 230-149.5 **Accessory structures.**

A. Location.

- (1) No accessory structure shall be located within any front yard area.
- (2) An accessory structure shall be permitted to be located in the front yard area along the secondary street, provided that such structure shall be no closer than 15 feet from the properly line along the secondary street.
- (3) On corner lots and/or through lots, the Zoning Officer or the Board having jurisdiction shall have the ability to determine which streets shall constitute the primary and secondary streets for purposes of this subsection.

B. Setbacks.

- (1) Accessory structures shall be set back a minimum distance from the side and rear lot lines, based on the size of such structure and the district in which it is located, as follows:
  - (a) RA and RB districts: three (3) feet, provided that the structure does not exceed 100 square feet in area and does not exceed a height of 10 feet above grade.
  - (b) RA, RA-E (Residential Cluster), RB, RM-T, RMT-W, RMT-H, SC, CBD, C and PO districts: five (5) feet.
  - (c) RA-E, RM-G, RM-M, CS, and LI districts: 10 feet.
  - (d) C/R and QP districts: 25 feet.

C. Gross floor area.

- (1) No accessory structure in conjunction with a single- or two-family dwelling shall exceed 600 square feet in gross floor area.

D. Height.

- (1) No accessory structure in any district shall exceed 15 feet in height.

E. Exemptions.

- (1) Flagpoles, light or sign posts, walks, driveways, patios at ground level, mail boxes and fences and walls less than two (2) feet in thickness shall be exempt from the provisions of this subsection.

**SECTION 22.** Article XV, Zoning Regulations, of the “Code of the Borough of Highland Park” is hereby amended to add a new Section 230-149.6 – Mechanical equipment:

§ 230-149.6 **Mechanical equipment.**

A. Location.

- (1) No mechanical equipment shall be located within any front yard area.
- (2) Mechanical equipment shall be permitted to be located in the front yard area along the secondary street, provided that such equipment shall be no closer than 10 feet from the properly line along the secondary street.
- (3) On corner lots and/or through lots, the Zoning Officer or the Board having jurisdiction shall have the ability to determine which streets shall constitute the primary and secondary streets for purposes of this subsection.

B. Setbacks.

- (1) Mechanical equipment shall be set back a minimum distance from the side and rear lot lines as follows:
  - (a) Air conditioner (A/C) condenser units, stand-by generators, and fuel tanks: five (5) feet.
  - (b) Transformers: 10 feet.

C. Screening.

- (1) Mechanical equipment shall be properly screened from public view from any street by planting of evergreen shrubs, trees, berm, and/or a permitted fence or wall to provide an opaque visual barrier, provided that such shall be 100% visually impervious at all times of the year.

D. Exemptions.

- (1) Window air conditioner (A/C) condenser units and any mechanical equipment located fully below grade shall be exempt from the provisions of this subsection.

**SECTION 23.** Any article, section, paragraph, subsection, clause, or other provision of the BOROUGH Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**SECTION 24.** If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

**SECTION 25.** This ordinance shall take effect upon its passage and publication and filing with the County of Middlesex Planning Board, and as otherwise provided for by law.

Introduced and Passed on first reading: June 14, 2022

Adopted: August 2, 2022

Approved: August 2, 2022

Attest:

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Jennifer Santiago, Municipal Clerk

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Gayle Brill-Mittler, Mayor