

ORDINANCE NUMBER 21-2021

FIRST READING/  
INTRODUCTION: November 10, 2021

SECOND READING/  
PUBLIC HEARING/  
ADOPTION: December 08, 2021

**ORDINANCE**

**BOROUGH OF EAST NEWARK  
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**AN ORDINANCE AMENDING CHAPTER 33 ZONING OF THE  
BOROUGH OF EAST NEWARK TO ENACT CERTAIN MASTER PLAN  
REEXAMINATION REPORT RECOMMENDATIONS**

**WHEREAS**, the Municipal Land Use Law (“MLUL”) (N.J.S.A. §§ 40:55D-1 *et seq.*) enables municipalities to adopt, and subsequently amend, zoning ordinances relating to the nature and extent of the uses of land, buildings and structures within a municipality; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-62, all provisions of such zoning ordinance or amendment or revision shall either be substantially consistent with the land use plan element and housing element of the municipality’s Master Plan or designed to effectuate such plan elements; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-89, the Borough of East Newark adopted a Master Plan Reexamination Report, dated April 19, 2021, adopted on May 6, 2021 (“2021 Reexamination Report”); and

**WHEREAS**, the 2021 Master Plan Reexamination Report included several recommendations; and

**WHEREAS**, one of the recommendations was that the Borough adopt an ordinance regulating fence height, materials, and transparency requirements in residential and non-residential zones; and

**WHEREAS**, one of the recommendations was that the Borough adopt an ordinance regulating the maximum permitted driveway widths and curb cuts. The 2021 Reexamination Report stated that there are no regulations limiting the width of driveways. Excessive driveway widths negatively impact the quantity of existing on street parking spaces; and

**WHEREAS**, one of the recommendations was to create bulk requirements for accessory structures, where none exist; and

**WHEREAS**, one of the recommendations was to consider requiring tandem parking in garages to mitigate risk of illegal conversions by reducing the space on the ground floor while also helping address parking needs within the neighborhoods; and

**WHEREAS**, one of the recommendations was that the Borough should explore the creation of an Ordinance regulating pools on residential properties to address the lack of existing regulations in the code; and

**WHEREAS**, one of the recommendations was to create standards regarding impervious coverage as most of the properties in the Borough are too small to require compliance with New Jersey's stormwater management rules; and

**WHEREAS**, the collective impact of properties with substantial impervious coverage generates a combined stormwater runoff that creates a burden on the combined sewer system, particularly in heavy rainfall events; and

**WHEREAS**, the Borough has decided to explore and act on these Master Plan Reexamination Report recommendations; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of East Newark, Hudson County, State of New Jersey, as follows:

All new language is depicted in **bold and underlined** and deletions are depicted in ~~strikethrough~~

**Section 1.** The following section shall be amended as follows:

§33-13 Parking **and Driveways**

~~Parking shall be provided at the ratio as required per Section 33-15. Each parking space shall consist of a nine-foot width and a length not less than 18 feet.~~

**A. Permit required. No person or entity shall construct or modify a driveway from a private property to a public roadway or a parking area without first filing and receiving a zoning permit from the East Newark Construction Code Enforcement Department.**

**B. Location and Dimensions.**

- 1. Off-Street Parking Spaces. Parking shall be provided at the ratio as required per Section 33-15. Each parking space shall consist of a nine-foot width and a length not less than 18 feet.**
- 2. All driveways shall be perpendicular to the roadway. The centerline of the driveway may not run parallel to the roadway.**
- 3. Paving for driveways shall not be located within five feet (5') of a side or rear property line.**
- 4. The driveway width for one- and two-family dwellings shall be 10 feet.**
- 5. The driveway width for commercial and multifamily properties shall be 12 feet for one-way driveways and 22 feet for two-way driveways.**
- 6. The driveway width for commercial and multifamily properties shall be 12 feet for one-way driveways and 24 feet for two-way driveways.**

~~Strikethroughs~~ are deletions  
Underlines are additions

**C. Number of driveways.**

- 1. One to four family dwellings shall be limited to one (1) driveway.**
- 2. Commercial and multifamily residential properties may have two (2) driveways on the same lot, provided that the driveways are a minimum of 50 feet apart.**

**D. All driveways are required to have a depressed curb.**

**E. Attached garages associated with new construction for one-and-two family dwellings shall utilize a tandem parking configuration within the garage to fit a minimum of two (2) vehicles.**

Section 2. The following section shall be added as follows:

**§33-13B Fences and Walls**

**A. General Regulations for Fences and Walls**

- 1. All fences and walls require zoning permits and building permits where applicable.**
- 2. The face or finished side of a fence or wall shall face the adjacent properties or street.**
- 3. No fence or wall shall be so constructed or installed so as to constitute a hazard to traffic or safety.**
- 4. Chain link fences are prohibited in residential and commercial districts. Vinyl coated chain-link fencing shall be permitted in Industrial districts only.**
- 5. Fences shall be of a consistent and ornamental nature. Permitted materials include wrought iron, wood, tubular metal, vinyl, or similar high-quality materials.**
- 6. No fence or wall shall be constructed with barbed wire, metal spikes or other such dangerous material or constructed in such manner as to be dangerous to animals or humans. Electrical devices hazardous to human life are prohibited on all fences.**
- 7. Notwithstanding the provisions herein, if it is demonstrated that a retaining wall of a height greater than the maximum permitted height is deemed necessary by the Borough Engineer, said retaining wall shall be exempt from the height regulations herein.**
- 8. Fences surrounding the perimeter of private tennis courts, basketball courts, or similar recreation areas shall be exempt from the above height requirements and may be constructed with chain-link style fencing. Said fence shall not exceed 12 feet in height above ground level and shall not be closer than two feet (2') to any side or rear property line nor be located in any required front yard.**

Strikethroughs are deletions

Underlines are additions

**B. Fences and Walls in Residential Districts**

1. Walls up to three feet (3') in height used as retaining walls or for landscaping purposes or fences up to three feet (3') in height shall be permitted in all yards. Walls may be topped with ornamental metal fencing that is a minimum of 50% open; however, the overall height shall not exceed a maximum height of four feet (4') in the front yard or six feet (6') in the side and rear yards.
2. The maximum permitted fence height in rear and side yards shall be six feet (6') in height, up to and behind the front facade of the principal building.
3. The maximum permitted fence height in the front yard shall be four feet (4'). Such fence shall be of open or semi-open construction with a minimum of 50% open area. In the case of corner lots, fences along the secondary frontage of a corner lot may be a maximum of six feet (6') in height, where the site triangle for vehicular and/or pedestrian traffic is not obstructed. The primary frontage shall be defined as the street where the primary entrance is located and the narrower of the two lot lines that front on a street.

**C. Fences in Commercial Districts**

1. Fences are not permitted in front yards.
2. A maximum fence height of six feet (6') shall be permitted along side and rear property lines. Such fences may be of solid, open or semi-open construction.
3. Where a commercial district abuts a residential property or district, a six (6') foot tall solid fence shall be provided along the abutting property line.

**D. Fences in the Industrial District**

1. A maximum fence height of eight feet (8') shall be permitted along all property lines.
2. Vinyl coated chain link fences are permitted within the Industrial District, pursuant to the maximum height standards herein.
3. Where an industrial district abuts a residential property or district, a solid fence, at least six feet (6') in height, shall be provided along the abutting property line.

**E. Swimming Pool Fences**

1. Every private swimming pool shall be completely surrounded by a fence or wall not less than four feet (4') in height, and no more than six feet (6') in height. Fences or walls enclosing a pool shall be a minimum distance of five feet (5') from the outside edge of the swimming pool. A dwelling house or accessory building may

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Underlines are additions

be used as part of such enclosure. All gates and doors opening through the fence shall be equipped with a self-closing and self-latching device for keeping the gates or door securely closed at all times when not in use.

Section 3. The following section shall be added as follows:

**§33-13C Swimming Pools**

- A. Permit required. No person or entity shall construct, install, or modify a pool without having obtained a permit from the East Newark Construction Code Official. No permit shall be required for a wading pool of the portable type with a depth of less than 24 inches.
- B. Inground or above ground swimming pools accessory to a residential use shall be erected on the same zone lot as the principal structure in the rear yard of the property.
- C. All swimming pool walls shall be a minimum of five feet (5') from all property lines.
- D. Swimming pool fencing shall be in accordance with the subsection of this article entitled, "Fences and Walls," 33-13.B.E.

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Section 4. 33 Attachment 1 shall be replaced with the following:

<b>Bulk Requirements</b>					
	<b>R-2 – One and Two Family Residential</b>	<b>NB/C – Neighborhood Business/Commercial</b>	<b>GB/C – General Business/Commercial</b>	<b>CR – Commercial Recreation</b>	<b>I – Industrial</b>
<b>Min. Lot Area</b>	2,500 square feet	2,500 square feet	2,500 square feet	20,000 square feet	40,000 square feet
<b>Min. Lot Width</b>	25 feet	25 feet	150 feet	200 feet	200 feet
<b>Min. Lot Depth</b>	100 feet	100 feet	100 feet	100 feet	N/A
<b>Max. Principal Building Height</b>	3 stories / 35 feet See Note 1	3 stories / 40 feet	2 stories / 32 feet	1 story / 18 feet	60 feet
<b>Min. Front Yard Setback</b>	20 feet See Note 4	0 feet See Note 5	10 feet	10 feet	15 feet
<b>Min. Side Yard Setback</b>	3 feet each side	0 feet See Note 5	20 feet	10 feet	15 feet
<b>Min. Rear Yard Setback</b>	25 feet	0 feet See Note 5	30 feet	25 feet	15 feet
<b>Max. Building Coverage</b>	50%	80%	80%	65%	85%
<b>Max. Impervious Lot Coverage</b>	65%	90%	85%	85%	90%
<b>Max. Accessory Building Height</b>	1 story / 15 feet	1 story / 15 feet	1 story / 15 feet	1 story / 15 feet	1 story / 15 feet
<b>Min. Side and Rear Yard Setback – Accessory Buildings</b>	3 feet	3 feet	3 feet	3 feet	3 feet
<b>Off-Street Parking Requirements</b>	See Note 2	N/A	1 space per 250 square feet of retail floor area; 1 space per 300 square feet of office area; 1 space per 3 seats/restaurant	1 space per 560 square feet of area utilized for recreation	See Note 3
<b>NOTES:</b>					
1.	A full bathroom on the ground/first floor is prohibited. Only 1 half bathroom without a bathtub or shower shall be permitted on the ground/first floor.				
2.	Single family: two spaces; Two-family: three spaces				
3.	See subsection 31-15 of Chapter 31				

4.	In such case in the R-2 Zoning District where the existing dwellings on the same side of the street and within 200 feet on either side of the subject lot create an established setback line, the minimum front yard setback shall conform to such established setback line, or 20 feet, whichever is greater, but in no case shall it be required for the front yard setback to exceed 35 feet.
5.	Buildings shall not be located within 3 feet of existing doors and windows, or block emergency entrances and exits of existing buildings.

**Section 5.** All Ordinances or parts of Ordinances inconsistent herewith are repealed.

**Section 6.** If any section, subsection, sentence, clause, phrase, or a portion of this Ordinance is for any reason held to be invalid or unconstitutional by a 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 hereof.

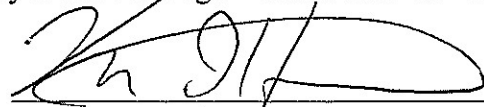
**Section 7.** This ordinance shall become effective after second reading and publications as required by law.

Introduction – First Reading

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Diaz						X
Evaristo	X		X			
Graham			X			
Lucas			X			
Reis					X	
Zincavage		X	X			

CERTIFICATION

I, Kevin D. Harris, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on November 10, 2021.



Kevin D. Harris  
Borough Clerk

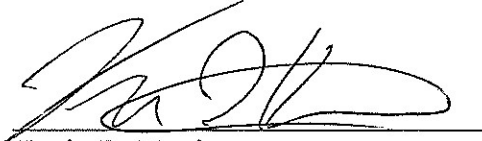
Adoption – Second Reading

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Diaz			X			
Evaristo						X
Graham		X	X			
Lucas			X			
Reis	X		X			
Zincavage			X			



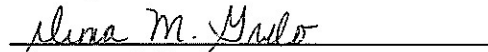
CERTIFICATION

I, Kevin D. Harris, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading after a public hearing, by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on December 8, 2021.

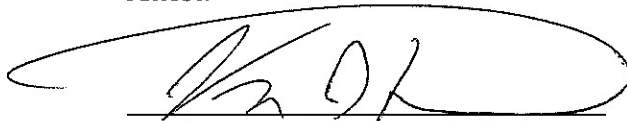


Kevin D. Harris  
Borough Clerk

Adopted:

  
Dina M. Grilo, Mayor

Attest:

  
Kevin D. Harris, Borough Clerk