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City of Bayonne, NJ / Municipal Code

Chapter 35

Zoning Regulations

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New Laws

Title Adopted Subject Affects

Ord. No. O-22-15

2022-04-20

Planning and Development Regulations Amendment; Zoning Regulations Amendment

Ch 33, Ch 35

Ord. No. O-22-19

2022-05-18

Zoning Regulations Amendment

Ch 35

Ord. No. O-22-31

2022-09-21

Zoning Regulations Amendment

Ch 35

Ord. No. O-22-34

2022-10-19

Zoning Regulations Amendment

Ch 35

Ord. No. O-22-35

2022-10-19

Zoning Regulations Amendment

Ch 35

Editor's Note: Zoning was codified in the 1972 Code as Chapter XXXIII. The Zoning Chapter as adopted by Ordinance No. O-95-12 is contained herein. Amendments noted where applicable.

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§ 35-1 TITLE, PURPOSES AND SCOPE.

§ 35-1.1 Short Title. [Ord. No. O-95-12, § 33-1.1] This chapter shall be known and may be cited as the Zoning Regulations of the City of Bayonne.

§ 35-1.2 Purposes. [Ord. No. O-95-12, § 33-1.2] This chapter is adopted under the authority of the Municipal Land Use Law, and it is the purpose and intent of this chapter to effectuate the purposes of that Act as they apply to the City of Bayonne, including, but not limited to, the following:

a. To exercise municipal action in a manner which will effectively guide the appropriate use or development of all lands in this City, so as to best promote the public health, safety, morals and general welfare.

b. To preserve the City from avoidable fire, flood, panic and other natural and man-made disasters.

c. To provide adequate light, air, and open space.

d. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all Bayonne citizens.

e. To promote the conservation of historic sites and districts, open space, energy resources and natural resources; to prevent urban sprawl and degradation of environment through improper land uses; and to insure the establishment of appropriate population densities and concentrations.

f. To locate, design and utilize transportation routes and systems in conjunction with land use that will best serve the City's development.

g. To use creative development and design techniques to promote a desirable visual environment.

h. To promote and encourage a broad range of housing choices and residential growth.

i. To coordinate public development, private development and land use policies in order to encourage the efficient use of land and to reduce expenditures of public funds.

j. To promote the utilization of renewable energy sources and the maximum recovery and recycling of materials from municipal solid waste.

§ 35-1.3 Interpretation. [Ord. No. O-95-12, § 33-1.3] The provisions of this chapter shall be considered as minimum requirements, and conflicting laws of a more restrictive nature shall supersede any provisions of this chapter. Conflicting laws of a less restrictive nature, or those conflicting in other ways than degrees of restrictiveness, are hereby repealed. In all cases, the provisions and definitions of the Municipal Land Use Law shall guide the interpretation, administration and enforcement of this chapter.

§ 35-1.4 Severability. [Ord. No. O-95-12 § 33-1.4] If any section, paragraph, subdivision, clause or provision of this chapter shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this chapter shall be deemed valid and effective.

§ 35-2 (RESERVED)

§ 35-3 ESTABLISHMENT OF DISTRICTS.

§ 35-3.1 Establishment of Zone Districts. [Ord. No. O-95-12 § 33-3.1; Ord. No. O-97-43; Ord. No. O-01-19 § 3; 3-18-2020 by Ord. No. O-20-20] For the purposes of this chapter, the City of Bayonne is hereby divided into zone districts, as follows: R-1 Single Family Residential District R-2 Detached/Attached Residential R-3 Medium Density Residential District R-M High Density Residential District WD Waterfront Development District WR Waterfront Recreational C-1 Neighborhood Commercial District C-2 Community Commercial District CBD Central Business District ORS Office/Retail Service UBD Uptown Business District H-C Highway Commercial/Selected Light Industrial TDD Transit Development Zone TDO Transit Development Overlay Zone IL-A Light Industrial District IL-B Light Industrial District I-H Heavy Industrial District BMHD Bayonne Metropolitan Harbor District H-1 Hospital District

§ 35-3.2 Zoning Map. [Ord. O-95-12 § 33-3.2; Ord. No. O-97-43 § 4; Ord. No. O-00-34; Ord. No. O-01-19 § 3; Ord. No. O-14-14]

a. Adoption of the Zoning Map. The boundaries of the Zoning districts are hereby established as shown on the Zoning Map which accompanies this chapter and which, with all notations, references, and other information shown thereon, shall be as much a part of this chapter as if fully described herein and shall be known as the Zoning Map of the City of Bayonne, dated February 28, 2001.[1] [1] Editor's Note: The Zoning Map referred to herein may be found as an attachment this chapter. Such map may be amended periodically by an ordinance duly adopted according to law.

b. Amendments to the Zoning Map.

1. Pursuant to Ordinance No. O-14-14, the Transit Development District has been amended to include Block 268, Lot 2.

2. Pursuant to Ordinance No. O-20-03, the City Engineer and the City Planner created an updated City Zoning Map that is digital, in-color and more accessible to the public but does not make any boundary changes.

3. Pursuant to Ordinance No. O-20-33, an area of land, fronting on John F. Kennedy Boulevard and bounded by Leo Slyvious Road and West 58th Street, on the City's Zoning Map that has no zoning designation is given the designation of R-2.

§ 35-3.3 District Boundaries. [Ord. No. O-95-12 § 33-3.3; Ord. No. O-01-19 § 3]

a. The zone district boundary lines shown on the City Engineer and the City Planner created an updated City Zoning Map that is digital, in-color and more accessible to the public but does not make any boundary changesthe Zoning Map are intended to follow property lines existing at the date of the adoption of the map, the center line of street right-of-ways and municipal boundary lines as applicable.

b. In all cases where a district boundary is located not farther away than 10 feet from a lot line of record, the boundary shall be construed to coincide with such line.

c. In case of uncertainty or disagreement as to the precise location of any zone district boundary line, the determination thereof shall lie with the Zoning Board of Adjustment.

§ 35-4 GENERAL PROVISIONS.

§ 35-4.1 Effect of Zoning Regulations. [Ord. No. O-95-12 § 33-4.1]

a. Conformity with Regulations. No land or premises may be used and no building or structure may be erected, razed, moved, extended, altered, enlarged, used and/or substituted for any purposes other than in conformity with the regulations herein specified for the district in which it is located.

b. Uses Not Permitted Are Prohibited. Any use not listed as a permitted principal use, conditional use, and/or accessory use by this chapter, or otherwise required to be permitted by law, shall be deemed to be prohibited.

c. Continuance. Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building for which a valid construction permit has been heretofore issued or plans for which are on file with the Construction Official at the time of the effective date of this chapter, and a permit for the erection of which is issued within 30 days after the effective date of this chapter and the construction of which, in either case, shall have been diligently prosecuted within six months of the date of such permit, and the ground storm framework of which, including the second tier of beams shall be completed within such six months, and which entire building shall have been completed according to such plans as filed within one year from the date of the effective date of this chapter.

§ 35-4.2 Uses Prohibited in all Districts. [Ord. No. O-95-12 § 33-4.2] Any use which fails to comply with performance standards as defined herein shall be prohibited.

§ 35-4.3 Dangerous Conditions. [Ord. No. O-95-12 § 33-4.3] No permit shall be granted for a building or use if the design or construction of the same involves or is likely to involve exceptional risks of traffic congestion, public safety or hazard. If the design or construction of any building or use is so markedly incongruous with the character of the neighborhood as to materially affect the value of adjacent or nearby property, the Construction Code Official or Zoning Officer shall deny the permit and refer the applicant to the Board of Adjustment which shall act thereon.

§ 35-4.4 Exemption from Use Regulations. [Ord. No. O-95-12 § 33-4.4] The regulations with regard to use provisions of this chapter shall not apply to uses or facilities developed by municipal agencies, other than the Municipal Housing Authority, provided that yard requirements are maintained for the district in which the use is located.

§ 35-4.5 Construction Permits. [Ord. No. O-95-12 § 33-4.5]

a. Permits Required. No building or structure, shall be erected, razed, moved, extended, enlarged, or altered until a construction permit has been issued by the Construction Official. No construction permit shall be issued unless it is in complete conformity with this and all other applicable ordinances, statutes, and regulations, unless permission for such variation is granted by the approving authority as provided by law.

b. Demolition of Existing Structures. No building, structure, or part thereof shall be demolished until a permit has been granted by the Construction Code Official.

§ 35-4.6 Conversion of Existing Structures. [Ord. No. O-95-12 § 33-4.6] The conversion of existing buildings or structures to a use permitted in the zone district in which the building or structure is located shall be regulated to the same extent as a new building or structure constructed in the zone district.

§ 35-4.7 Certificate of Occupancy. [Ord. No. O-95-12 § 33-4.7]

a. New and Altered Structures. No building, structure or premises, or a combination of same hereafter erected, altered, extended or enlarged shall be occupied or used until a certificate of occupancy has been issued by the Construction Official, indicating that the use is lawful and that all work has been completed in accordance with the permit, the approved plans, and the provisions of this chapter.

b. Change in Use. A new certificate of occupancy shall be required for any change in use, including a change from one permitted use to another kind of permitted use in the same zone. The certificate of occupancy shall be issued by the Construction Official indicating that the use is permitted both in the building as constructed and for the district in which the use is to be maintained.

c. Existing Uses or Structures. No building, structure or premises may be used or occupied for any purpose following transfer of ownership prior to the issuance of a certificate of continued occupancy in accordance with provisions of the New Jersey Uniform Construction Code. Nothing in this section shall prevent the continued lawful use and occupancy of any lawfully existing building or structure.

d. Temporary Certificate of Occupancy. Where a building, structure, or premises is completed or sections are completed and safe for human occupancy, the Construction Official, with the approval of the Zoning Officer, may issue a temporary certificate of occupancy for that portion of the building, structure, or premises while work proceeds to bring the entire building into compliance with municipal codes. Such temporary authorization may contain restrictions to ensure the timely completion of the work and to protect the health and safety of the occupants.

§ 35-4.8 Lots to Have Access. [Ord. No. O-95-12 § 33-4.8] Every building or structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located as to provide safe and convenient access for servicing and fire protection.

a. State Highway Access. Access to land adjacent to State highways shall conform to the State Highway Access Management Code adopted by the Commissioner of Transportation under Section 3 of the "State Highway Access Management Act," P.L. 1989. (N.J.S.A. 27:7-91).

b. County Road and Highway Access. Access to land adjacent to County roads and highways shall conform to any access management code adopted by the County under N.J.S.A. 27:16-1.

c. Municipal Street and Highway Access. Access to land adjacent to municipal streets and highways shall conform to any municipal access management code adopted under N.J.S.A. 40:67-1.

§ 35-4.9 Location of Building Frontage of Residential Structure. [Ord. No. O-95-12 § 33-4.9] The principal entrance of all buildings shall be construed as the front of the building. The principal entrance of detached or semi-detached dwellings, or townhouses shall front on a dedicated street.

§ 35-4.10 Access to Nonresidential Use Prohibited. [Ord. No. O-95-12 § 33-4.10] No driveway access servicing a nonresidential use shall be permitted through a residential lot or zone unless otherwise permitted under this chapter.

§ 35-4.11 Second Principal Building on Same Lot Prohibited. [Ord. No. O-95-12 § 33-4.11] No lot in the R-1, R-2 or R-3 zone districts shall contain more than one principal building. No building to be used as a dwelling shall be constructed, altered, or moved in front of or to the rear of any other building used as a dwelling situated on the same lot.

§ 35-4.12 Accessory Buildings and Structures. [Ord. No. O-95-12 § 33-4.12] Except as provided by paragraph a2 below, all accessory buildings and structures shall comply with the bulk requirements of subsection 35-5.26, inclusive of area, yard and height provisions.

a. Residential Districts. Accessory buildings customary and incidental to a principal building shall be permitted provided that the following requirements are met:

1. That building coverage of the accessory building or structure does not exceed that of the principal structure.

2. The accessory building may be located in any required side or rear yard, provided that a minimum setback of three feet is maintained to any property line.

3. No accessory building or structure on a corner shall interfere with safe sight distance for vehicular traffic at an intersection.

4. No accessory building or structure shall be erected on a lot not containing a principal building or structure.

5. No accessory building structure or part thereof, shall be used for dwelling purposes.

b. Nonresidential Districts. Accessory buildings and structures shall be permitted provided that the following requirements are met:

1. No accessory building shall be located in a required yard setback.

2. Accessory buildings on corner lots shall not be closer than the building line of the adjacent principal structure, nor interfere with safe sight distance for vehicular traffic at an intersection.

3. No accessory building or structure shall be erected on a lot not containing a principal building or structure.

4. No accessory structure shall be designed for dwelling purposes.

§ 35-4.13 Visibility at Street Intersections. [Ord. No. O-95-1, § 33-4.13] On any corner lot, no fence, structure, or shrubbery over 36 inches in height, nor any tree whose crown is lower than 10 feet in height above grade shall be erected or maintained which shall interfere with traffic visibility around a corner. This shall not apply to intersections whose angle exceeds 135°.

§ 35-4.14 Fences, Walls and Buffers. [Ord. No. O-95-12 § 33-4.14; Ord. No. O-01-19 § 4]

a. Residential Districts. In residential districts, fences and walls other than retaining walls shall be permitted in accordance with the following requirements:

1. Fences and walls on any side or rear property line shall not exceed six feet in height.

2. No fence in a residential district shall contain barbed wire.

3. Fences and walls on any front property line shall not exceed four feet in height, nor impede safe sight distance around the corner.

4. Fences and walls on corner lots may be a maximum of six feet for 1/2 the lot depth constituting the side property line relating to the principal entrance to the building and further provided that the remainder of fencing along such lot line or front lot line shall not exceed 36 inches in height.

5. Fences shall be installed so that the "finished," or better, side of any fence faces the street or adjacent property.

b. Commercial Districts. Fences and walls other than retaining walls shall be permitted in accordance with the following requirements:

1. Fences and walls on side or rear property lines shall not exceed 10 feet in height.

2. Fences abutting residential properties shall be made of solid fencing material intended to screen the view of the commercial use from the residential lot.

3. Fences and walls located along frontages abutting street rights-of-way shall be of decorative materials and not exceed four feet in height.

4. Fences and walls located on corner lots shall not impede safe sight distance around a corner.

c. Industrial Districts. Fences and walls other than retaining walls shall be permitted in accordance with the following restrictions:

1. Fences and walls may be located in any yard, provided they do not exceed 12 feet in height inclusive of any additional apparatus such as barbed wire.

2. Chain link fences abutting street rights-of-way shall be visually obscured by planting material.

3. Fencing located on corner lots shall not impede nor obscure sight distance around a corner.

§ 35-4.15 Temporary Uses. [Ord. No. O-95-12 § 33-4.15] Temporary uses may be authorized by the Zoning Officer permitting the use of trailer, mobile home, or other similar use incidental to construction projects including the storage of building supplies and machinery and a temporary real estate office, provided that overnight sleeping accommodations are not included and adequate arrangements for sanitary facilities are made. Such uses shall be conditioned upon a bonded agreement by the owner or developer to remove and/or discontinue such uses upon expiration of the permit.

§ 35-4.16 Cellar and Basement Apartments. [Ord. No. O-95-12 § 33-4.16] No cellar or part thereof as defined in this chapter shall be used or occupied as a separate dwelling unit. Basement apartments may be permitted provided that the floor level of the basement is not more than three feet below grade, and otherwise meets applicable local and State standards.

§ 35-4.17 Lot Grade. [Ord. No. O-95-12 § 33-4.17] Grades on any lot upon which new construction is to be carried out shall be comparable with the existing grades and drainage system such as to provide adequate drainage on the property. All grading shall be designed to slope away from walls of proposed or existing structures and to prevent run-off of surface water onto adjacent properties.

§ 35-4.18 Removal or Filling of Soils. [Ord. No. O-95-12 § 33-4.18; Ord. No. O-09-28 § 2] Except in connection with normal construction work for which site plan approval has been granted, or for work exempt from site plan approval, where permits have been granted, the removal or filling of soils or changing of grade shall be permitted only under a renewable annual permit issued by the Division of Engineering, provided that the proposed operation and the conditions of the excavated or filled site shall not be detrimental to surrounding land uses or public health. Conditions may be imposed to ensure such operations do not pose any hazards.

§ 35-4.19 Street Improvements/Drainage. [Ord. No. O-95-12 § 33-4.19] Street improvements such as curbs, sidewalks, driveway openings, and aprons, and drainage systems shall comply with City standards and any such regulatory requirements deemed necessary by the City Engineer.

§ 35-4.20 Garbage Dumpsters. [Ord. No. O-95-12 § 33-4.20]

a. Structures to House Garbage Dumpsters. Garbage dumpsters shall be housed within a structure consisting of a concrete base or pad and four walls consisting of solid fencing material or masonry construction or a combination thereof, of which one wall be movable to permit access to the dumpster. The height of such walls or fences shall be at least six feet, but not greater than eight feet.

b. Location of Structures Housing Dumpsters. The location of any structure housing a garbage dumpster shall comply with the following requirements:

1. No structure housing a garbage dumpster shall be located within any front yard except in nonresidential districts where the front yard is used as the primary parking area. Any such structure permitted in a front yard shall be located at least 20 feet from a front property line.

2. The structure shall be located at least five feet from any rear or side property line.

3. The structure shall be located at least 10 feet from any property line of a lot used for residential purposes or within a residential zone district.

4. Garbage dumpsters shall be located so as to permit access by the collection vehicle without the vehicle extending onto a public right-of-way.

§ 35-4.21 Vending Machines. [Ord. No. O-95-12 § 33-4.21] Vending machines shall be permitted outside the confines of a building as a permitted accessory structure in commercial districts only if the following requirements are complied with:

a. The machine is accessory to the principal use of the property. No machines shall be located on a lot without a principal structure.

b. The machine is in conformance with all yard requirements of the zone district in which it is located.

c. Any signage advertising the products sold shall be an integral part of the machine itself and shall only be illuminated internally.

d. The machines shall be set back at least five feet from any parking area, driveway or street and further be separated by curbing, bollards, railing, concrete platforms or similar means.

§ 35-4.22 Cannabis Establishments. [1] [Added 3-17-2021 by Ord. No. O-21-13] Cannabis establishments shall be permitted, pursuant to this chapter, only if the following requirements are complied with:

a. The regulations of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this section is inconsistent with the statutes and/or regulations of the State of New Jersey, the state statutes and/or regulations shall prevail.

b. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the City of Bayonne for the applicable type(s) of cannabis establishment. No cannabis establishment shall be permitted to operate without state and municipal permits or licenses.

c. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the City of Bayonne.

d. No cannabis establishment shall be allowed as a home professional occupation as defined in Subsection 33-2.2 and Subsection 35-4.25.

e. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.

f. Odor. Cannabis establishments shall have equipment to mitigate odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises.

g. Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.

h. Security. All cannabis establishments shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel on-site at all times during operating hours.

i. Hours. No cannabis retailer may open to customers for business before 8:00 a.m. or remain open to customers for business after 10:00 p.m.

j. Prohibited uses. Except as expressly permitted by this chapter and Chapter 4, § 4-30, of the General Ordinances, entitled "Cannabis Establishments," as well as any other activity involved in the cultivation, manufacture, processing, testing, dispensation, distribution and/or sale of cannabis, marijuana or cannabis products, are expressly prohibited as land uses or otherwise in the City of Bayonne.

k. (Reserved) [1] Editor's Note: Former subsection 35-4.22, Swimming Pools, previously codified herein and containing portions of Ord. No. O-95-12, was repealed in its entirety by Ord. No. O-11-18. See Subsection 33-10.27 for private swimming pool regulations.

§ 35-4.23 Satellite Earth Stations (Satellite Dishes). [Ord. No. O-95-12 § 33-4.23] Satellite earth stations shall be permitted as an accessory structure in all zone districts. No such apparatus shall be permitted on a lot without a principal structure or building.

a. All Districts. Satellite earth stations located in any zone district shall comply with the following requirements:

1. Unless more strictly regulated by this section, comply with all applicable height, yard, setback, and bulk requirements for accessory structures.

2. No satellite dish surface shall be utilized for the purposes of business or advertising signage.

3. No satellite dish shall exceed 12 feet in diameter.

4. No lot shall contain more than one satellite dish antenna.

b. Residential Districts. In residential zone districts, satellite dish antennas shall comply with the following requirements:

1. Roof mounted dish antennas located in residential zones shall not exceed two feet in diameter.

2. Unless otherwise provided satellite dish antennas may be located only in a rear yard.

3. Satellite dish antennas shall not be located closer than six feet from any side or rear property line and on corner lots, no closer than 10 feet from any street right-of-way.

4. Satellite dish antennas shall be effectively screened by plantings and/or fencing, continually maintained, in order that to the greatest extent possible, the apparatus is not visible from adjacent property or public streets.

c. Nonresidential Districts. In nonresidential districts, satellite dish antennas shall comply with the following requirements:

1. Satellite dish antennas may be roof mounted or located in any side or rear yard.

2. No roof-mounted antenna shall be greater in height than 15 feet measured from the base of the antenna to its highest point, or 25% of the existing height of the building, whichever the lesser.

3. No permit shall be granted for a roof mounted satellite dish without a certification from a licensed structural engineer that the proposed installation is in compliance with all applicable building codes, including load distributions within the building's support structure.

4. Ground mounted satellite dish antenna shall be effectively screened from any residentially zoned lot or a lot used for residential purposes and from any street right-of-way.

§ 35-4.24 Storage Trailers Prohibited. [Ord. No. O-95-12, § 33-4.24; Ord. No. O-97-04, § 2]

Except in heavy industrial zones, placement of trailers as defined in this chapter on any lot for purposes of storage shall be prohibited except as provided by subsection 35-4.15. In heavy industrial zones, any legally registered trailer, conveying materials related to the principal use, mounted on a chassis with wheels shall be permitted. No such trailer shall remain parked on said premises for longer than 90 days.

§ 35-4.25 Home Professional Occupations. [Ord. No. O-95-12 § 33-4.25; O-16-38 § 33-4.25; Ord. No. O-16-57; Ord. No. O-17-07]

a. A home professional occupation, as defined in Chapter 33, Planning and Development Regulations Section 33-2, may be permitted within a dwelling unit, subject to the following requirements:

1. For any premises not registered with the City of Bayonne as of June 1, 2017 as having a home professional occupation the proprietor or professional of the home occupation shall reside in the dwelling unit.

2. For any premises registered with the City of Bayonne as a having a home professional occupation as of June 1, 2017, the proprietor or professional of the home occupation shall not have to reside in the dwelling unit and said home professional occupation may be sold or transferred free of the residence requirement set forth above subject to and limited by the information set forth on the registration form as of June 1, 2017.

3. The use shall be clearly incidental and secondary to the residential use shall not change the character of use as a dwelling.

4. For any premises not registered with the City of Bayonne as of June 1, 2017 as having a home professional occupation, no more than 50% of the dwelling unit floor area shall be used for the home professional occupation.

5. For any premises registered with the City of Bayonne as having a home professional occupation as of June 1, 2017, no more than the percentage of the dwelling unit floor area set forth on the registration shall ever be used for the home professional occupation.

6. For any premises not registered with the City of Bayonne as of June 1, 2017 as having a home professional occupation, in two family dwellings, home professional occupations may occupy one of the dwelling units provided the proprietor resides in the other unit and the home occupation does not occupy more than 50% of the total floor area of the structure, exclusive of attics and basements.

7. For any premises registered with the City of Bayonne as having a home professional occupation as of June 1, 2017, in two family dwellings, home professional occupations may occupy one of the dwelling units, the proprietor does not have to reside in the other and no more than the percentage of the dwelling unit floor area set forth on the registration shall ever be used for the home professional occupation.

8. For any premises not registered with the City of Bayonne as of June 1, 2017 as having a home professional occupation, a home professional occupation shall be located on a single floor, and not be located in a cellar or attic space.

9. For any premises registered with the City of Bayonne as a having a home professional occupation as of June 1, 2017, a home professional occupation shall be located on a single floor, but may have storage space in a cellar or attic space. In no event, however, shall the storage space ever exceed that which is set forth on the registration form as of June 1, 2017.

10. For any premises registered with the City of Bayonne as a having a home professional occupation as of June 1, 2017, said home professional occupation may be sold or transferred subject to and limited by the information set forth on the registration form as of June 1, 2017.

11. There shall be no change in the outside appearance of the building or premises giving evidence to the conduct of the home professional occupation, other than signage in accordance with Section 35-25.

12. There shall be no on-premises distribution, delivery, or storage of goods or equipment in connection with such home professional occupation, except that this shall not prohibit occasional delivery of goods and equipment incidental to, but not an integral part of, such home occupation.

13. For any premises not registered with the City of Bayonne as of June 1, 2017 as having a home professional occupation, there shall be no more than one nonresident employed at the premises in connection with the home professional occupation.

14. For any premises registered with the City of Bayonne as a having a home professional occupation as of June 1, 2017, there shall be no more nonresidents employed at the premises in connection with the home professional occupation than are set forth on the registration as of June 1, 2017. The proprietor or professional of the home occupation shall present evidence of ownership or the written consent of the owner of the premises prior to issuance of a permit to conduct a home professional occupation under this section.

b. Nothing in this section shall be construed to limit, prohibit or regulate the occasional part-time use of a residence for the purpose of studying or working on papers in connection with a business or for the purpose of making or receiving telephone calls or using a computer in connection with work.

c. The City Clerk shall have on file a list of all home professional occupation dwelling registrations filed with the City of Bayonne as of June 1, 2017 and this list shall be the exclusive and sole list of all such dwellings for the purpose of determining whether or not a home professional occupation may exist or be sold in accordance with the more liberal standards set forth above and all dwellings set forth on said list shall be limited to the information set forth within the registration on file as of June 1, 2017.

§ 35-4.26 Security Doors. [Ord. No. O-95-12 § 33-4.26; Ord. No. O-01-19 § 5] No owner, operator or lessee of any building in a nonindustrial district shall install on the front exterior of the building any security gate or door including any sliding, rolling or folding gate or door. All such gates or doors should be located on the interior of the structure or building, inside the glass line of window openings or glass openings in exterior doors, and should be open-link type so that interiors are visible when gates are closed.

§ 35-4.27 Requirements of all other State, County and Local Regulations. [Ord. No. O-95-12 § 33-4.27] It is the applicant's responsibility to conform to all applicable State, County, and local regulations that could affect a particular application.

§ 35-4.28 Existing Subdivision or Reapportionments. [Ord. No. O-95-12 § 33-4.28] Lots apportioned in accordance with law prior to August 21, 1969, shall be exempt from the minimum lot size and area requirements of this chapter. Planning Board approval shall not be required with respect to lot size. Notwithstanding such exemption buildings must conform to the front and rear yard, height and coverage requirements of subsection 35-5.26.

§ 35-4.29 Pay Telephones. [Ord. No. O-95-12, § 33-4.29]

a. Pay telephones shall be permitted outside the confines of a building as a permitted structure.

b. Pay telephones which encroach upon a public right-of-way may be permitted provided such installation is in compliance with the following:

1. No pay telephone shall be permitted to rest upon, in or over any street or sidewalk when such installation, use or maintenance: (a) Unreasonably interferes with or impedes the flow of pedestrians or vehicular traffic, including any legally parked or stopped vehicles; or (b) Unreasonably interferes with the ingress or egress from any residence or place of business; or (c) Interferes with the use of traffic signs or signals, hydrants or mailboxes permitted at or near the location.

2. In residential zones, no pay telephones which encroach on a public right-of-way shall be permitted on the same side of the street within 200 feet of each other.

3. In all other zones, no pay telephones which encroach on a public right-of-way shall be permitted on the same side of the street within 100 feet of each other.

4. Before receiving a permit for installation of a pay telephone which encroaches on a public right-of-way an applicant shall provide the City of Bayonne with a certificate of liability insurance naming the City of Bayonne as an additional insured in limits of at least \$1,000,000 for each occurrence at no cost to the City of Bayonne. The Zoning Officer may require the removal of any pay telephone installed pursuant to this section for failure to maintain the required liability insurance hereunder.

§ 35-5 DISTRICT REGULATIONS.

§ 35-5.1 General Provisions. [Ord. No. O-95-12 § 33-5.1]

a. Bulk, Area, Yard and Height Requirements. The bulk requirements, inclusive of area, yard and height restrictions for uses in all districts shall comply with the provision of subsection 35-5.26.

b. Off-Street Parking and Loading. Off-street parking and loading for uses in all districts shall be provided in accordance with the requirements of Section 35-17.

c. Signage. Customary accessory signs are permitted in all districts subject to the provisions of Section 35-25.

d. Site Plan Review. All proposed structures, except for those specifically exempted, shall be subject to site plan review provisions of Chapter 33, Planning and Development Regulations of the Revised General Ordinances of the City of Bayonne.

e. Conditional Uses. All conditional uses shall be subject to the review provisions of subsection 35-5.28, Conditional Uses.

§ 35-5.2 R-1 Single Family Residential District. [Ord. No. O-95-12 § 33-5.2; Ord. No. O-01-19 § 6; Ord. No. O-11-18]

a. Permitted Uses.

1. Detached single-family dwellings.

2. Home occupations.

3. Family day care homes.

4. Essential services.

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

c. Permitted Accessory Uses.

1. Private sheds and other structures customarily associated with a residential use.

2. Private swimming pools, subject to the provision of subsection 35-10.27.

3. Private parking garages for residential uses, not to accommodate more than three automobiles per single-family dwelling.

d. Conditional Uses. Subject to the provisions of Schedule II in subsection 35-5.28.

1. Religious institutions: churches, synagogues, mosques, temples, convents, rectories, etc.

2. Educational institutions: Private and public elementary schools.

3. Community residences for the developmentally disabled; community shelters for victims of domestic violence; community residences for the terminally ill and community residences for persons with head injuries.

4. Public utility facilities.

e. Area, Yard and Structure Requirements. [Amended 11-10-2020 by Ord. No. O-20-58]

1. Minimum area: 3,000 square feet (interior lot) 4,000 square feet (corner lot)

2. Minimum lot fronting: 30 feet (interior lot) 40 feet (corner lot)

3. Minimum frontage setback: 20 feet (interior lot) 20 feet (corner lot)

4. Minimum rear yard setback: 20 feet (interior lot) 20 feet (corner lot) Accessory Structure: 3 feet (interior lot) 3 feet (corner lot)

5. Minimum Side Yard Setback Principal Structure 3 feet, except that the combination of both side yards must be at least 6 feet Accessory Structure 3 feet

6. Maximum structure height: 35 feet and not exceeding 2 1/2 stories Principal Structure 35 feet and not exceeding 2 1/2 stories Accessory Structure 15 feet and not exceeding 1 1/2 stories

7. Maximum lot coverage of principal and accessory structure 70%

f. Special Requirements.

1. All applicants for development in this zone may opt to use "prevailing" building setback; front yard setback; side yard setback and/or rear yard setback in accordance with the following: To establish "prevailing" setbacks for all or any of the above mentioned yard dimensions, the applicant must produce documentation, including: (a) A map prepared by a licensed N.J. surveyor that shows existing lots around the subject application per the City of Bayonne Tax Maps. (b) A table showing only lots in the same zone as the subject property and the intended measured dimensions to be reviewed by City officials. (c) All lots within the entire City block on both sides of the street as the subject parcel should be shown in the table. The "prevailing" setback dimensions shall be a measurement which exists for 65% of all existing lots. To further explain, 65% of all compatible structures must exhibit a dimension which equals or is less than the setback established for the proposed application. If a prevailing dimension cannot be established, the standard setback dimension shall be utilized.

§ 35-5.3 R-2 Detached/Attached Residential District. [Ord. No. O-01-19 § 7 [33-5.3]; Ord. No. O-07-22 § 1; Ord. No. O-11-18]

a. Permitted Use.

1. Detached single-family dwellings.

2. Detached two-family dwellings.

3. (Reserved)

4. (Reserved)

5. Home occupations.

6. Family day care homes.

7. Essential services.

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

c. Permitted Accessory Uses.

1. Private sheds and other structures customarily associated with a residential use.

2. Private swimming pools, subject to the provision of subsection 33-10.27.

3. Private parking garages for residential uses, not to accommodate more than three automobiles per single-family dwelling nor more than four automobiles per two-family dwelling or two-family townhouse.

4. Private parking garage for not more than one commercial van or truck, not exceeding 12,000 pounds in gross weight and used exclusively by the occupants of the principal dwelling provided that all other off-street parking requirements are met.

d. Conditional Uses. Subject to the provisions of Schedule II of subsection 35-5.28.

1. Additions, alterations and improvements to existing attached one- and two-family townhouses provided the use remains one- or two-family residential, the structural addition conforms to required or pre-existing bulk standards and the expansion is no greater than 33% of existing floor area.

2. Religious institutions: churches, synagogues, mosques, temples, convents, rectories, etc.

3. Educational institutions: Private and public elementary schools.

4. Community residences for the developmentally disabled; community shelters for victims of domestic violence; community residences for the terminally ill and community residences for persons with head injuries.

5. Hospital facilities, and their customary accessory structures and facilities.

6. Accessory parking on lots abutting commercial zone districts.

7. Fraternal organizations, lodges, community centers and other similar quasi-public uses.

8. Public utility facilities associated with a permitted principal use.

**e. Area, Yard and Structure Requirements. [Amended 8-19-2020 by Ord. No. O-20-45;
11-10-2020 by Ord. No. O-20-58]**

1. Minimum lot area: Detached Single-Family 3,000 square feet (interior lot) 4,000 square feet (corner lot) Detached Two-Family 3,000 square feet (interior lot) 4,000 square feet (corner lot)

2. Minimum lot frontage: Detached Single-Family 30 feet (interior lot) 40 feet (corner lot) Detached Two-Family 30 feet (interior lot) 40 feet (corner lot)

3. Minimum front yard setback: Detached Single-Family 20 feet (interior lot) 20 feet (corner lot)
Detached Two-Family 20 feet (interior lot) 20 feet (corner lot)

4. Minimum rear yard setback: Detached Single-Family 20 feet (interior lot) 20 feet (corner lot)
Detached Two-Family 20 feet (interior lot) 20 feet (corner lot) Accessory Structure (all uses) 3
feet (interior lot) 3 feet (corner lot)

5. Minimum Side Yard Setback (all uses) 3 feet, except that the combination of both side yards
must be at least 6 feet Accessory Structure: (all uses) 3 feet

6. Maximum structure height (all uses) Principal Structure 35 feet and not exceeding 2 1/2 stories Accessory Structure 15 feet and not exceeding 1 1/2 stories

7. Maximum lot coverage 70%

f. Special Requirements.

1. All applicants for development in this zone may opt to use "prevailing" building setback for front yard setback only after consultation with the City Planner, City Engineer and City Zoning officer. To establish "prevailing" setbacks for all or any of the above mentioned yard dimensions, the applicant must produce documentation, including: (a) A map prepared by a licensed N.J. surveyor that shows existing lots around the subject application per the City of Bayonne Tax Maps. (b) A table showing only lots in the same zone as the subject property and the intended measured dimensions to be reviewed by City officials. (c) All lots within the entire City block on both sides of the street as the subject parcel should be shown in the table. The "prevailing" setback dimensions shall be a measurement which exists for 65% of all existing lots. To further explain, 65% of all compatible structures must exhibit a dimension which equals or is less than the setback established for the proposed application. If a prevailing dimension cannot be established, the standard setback dimension shall be utilized.

§ 35-5.4 R-3 Medium Density Residential District. [Ord. No. O-01-19 § 8 [33-5.4]; Ord. No. O-011-18]

a. Permitted Uses.

1. Detached single-family dwellings.

2. Two-family detached dwellings.

3. One-family attached townhouses, with a minimum of two and a maximum of six dwelling units per structure. No more than one unit shall be permitted on an individual lot.

4. Two-family attached townhouses, with a minimum of four and a maximum of six dwelling units per structure. No more than two units shall be permitted on an individual lot.

5. Multiple family dwellings including three-to six-family dwellings and low rise apartment buildings.

6. Home occupations.

7. Family day care homes.

8. Essential services.

b. Required Accessory Uses.

- 1. Off-street parking subject to the provisions of Section 35-17.**

c. Permitted Accessory Uses.

- 1. Private sheds and other structures customarily associated with a residential use.**

- 2. Private swimming pools, subject to the provision of subsection 33-10.27.**

- 3. Private parking garages for residential uses, not to accommodate more than three automobiles per single-family dwelling nor more than four automobiles per two-family dwelling or two-family townhouse.**

- 4. Private parking garage for not more than one commercial van or truck, not exceeding 12,000 pounds in gross weight and used exclusively by the occupants of the principal dwelling provided that all other off-street parking requirements are met.**

- 5. Off-street parking areas for multifamily developments.**

- 6. Recreation facilities associated with multifamily developments.**

d. Permitted Conditional Uses. The permitted conditional uses shall comply with the conditional use requirements of Schedule II in subsection 35-5.28, Conditional Uses.

1. Religious institutions: churches, synagogues, mosques, temples, convents, rectories, etc.

2. Educational institutions: Private and public elementary schools.

3. Community residences for the developmentally disabled; community shelters for victims of domestic violence; community residences for the terminally ill and community residences for persons with head injuries.

4. Hospital facilities, and their customary accessory structures and facilities.

5. Accessory parking on lots abutting commercial zone districts.

6. Fraternal organizations, lodges, community centers and other similar quasi-public uses.

7. Public Utility facilities.

e. Area, Yard and Structure Requirements. [Amended 11-10-2020 by Ord. No. O-20-58]

1. Minimum area: Detached Single Family 3,000 square feet (interior lot) 4,000 square feet
(corner lot) Detached Double Family 3,000 square feet (interior lot) 4,000 square feet
(corner lot) Single family townhouse 2,000 square feet (interior lot) 3,000 square feet
(corner lot) Double family townhouse 2,500 square feet (interior lot) 3,000 square feet
(corner lot) Low Rise Apartments 1,000 square feet per unit 1,000 square feet per unit

2. Minimum lot fronting: Detached Single Family 30 feet (interior lot) 40 feet (corner lot)
Detached Double Family 30 feet (interior lot) 40 feet (corner lot) Single family townhouse 20 feet
(interior lot) 30 feet (corner lot) Double family townhouse 25 feet (interior lot) 30 feet (corner lot)
Low Rise Apartments 75 feet

3. Minimum frontage setback: Detached Single Family 20 feet (interior lot) 20 feet (corner lot)

Detached Double Family 20 feet (interior lot) 20 feet (corner lot) Single family townhouse 20 feet (interior lot) 20 feet (corner lot) Double family townhouse 20 feet (interior lot) 20 feet (corner lot)

Low Rise Apartments (none)

4. Minimum rear yard setback: Detached Single Family 20 feet (interior lot) 20 feet (corner lot)

Detached Double Family 20 feet (interior lot) 20 feet (corner lot) Single family townhouse 20 feet (interior lot) 20 feet (corner lot) Double family townhouse 20 feet (interior lot) 20 feet (corner lot)

Low Rise Apartments 20 feet (interior lot) 20 feet (corner lot) Accessory Structure: (all uses) 3 feet (interior lot) 3 feet (corner lot)

5. Minimum Side Yard Setback (all uses) 3 feet, except that the combination of both side yards must be at least 6 feet Low Rise Apartments none none Accessory Structure: (all uses) 3 feet

6. Maximum structure height Principal Use Detached Single Family 35 feet and not exceeding 2 1/2 stories Detached Double Family 35 feet and not exceeding 2 1/2 stories Single family townhouse 35 feet and not exceeding 2 1/2 stories Double family townhouse 35 feet and not exceeding 2 1/2 stories Low Rise Apartments 40 feet, not exceeding 3 1/2 stories Accessory Use Low Rise Apartments 20 feet and not exceeding 2 stories All other Uses 15 feet and not exceeding 1 1/2 stories

7. Maximum lot coverage of principal and accessory structure 70%

8. Floor Area Ratio Low Rise apartments

1.5 All other Uses (none)

f. Special Requirements.

1. All applicants for development in this zone may opt to use "prevailing" building setback; front yard setback; side yard setback and/or rear yard setback in accordance with the following: To establish "prevailing" setbacks for all or any of the above mentioned yard dimensions, the applicant must produce documentation, including: (a) A map prepared by a licensed N.J. surveyor that shows existing lots around the subject application per the City of Bayonne Tax Maps. (b) A table showing only lots in the same zone as the subject property and the intended measured dimensions to be reviewed by City officials. (c) All lots within the entire City block on both sides of the street as the subject parcel should be shown in the table. The "prevailing" setback dimensions shall be a measurement which exists for 65% of all existing lots. To further explain, 65% of all compatible structures must exhibit a dimension which equals or is less than the setback established for the proposed application. If a prevailing dimension cannot be established, the standard setback dimension shall be utilized.

§ 35-5.5 R-M High Density Residential District. [Ord. No. O-01-19 § 9 [33-5.5]; Ord. No. O-11-18]

a. Permitted Uses.

1. Detached single family dwellings.

2. Two family detached dwellings.

3. One family attached townhouses, with a minimum of two and a maximum of six dwelling units per structure. No more than one unit shall be permitted on an individual lot.

4. Two-family attached townhouses, with a minimum of four and a maximum of six dwelling units per structure. No more than two units shall be permitted on an individual lot.

5. Multiple family dwellings including three- to six-family dwellings and low rise apartment buildings.

6. High rise apartment buildings.

7. Home occupations.

8. Family day care homes.

9. Essential services.

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

c. Permitted Accessory Uses.

1. Private sheds and other structures customarily associated with a residential use.

2. Private swimming pools, subject to the provision of subsection 33-10.27.

3. Private parking garages for residential uses, not to accommodate more than three automobiles per single family dwelling nor more than four automobiles per two family dwelling or two-family townhouse.

4. Private parking garage for not more than one commercial van or truck, not exceeding 12,000 pounds in gross weight and used exclusively by the occupants of the principal dwelling provided that all other off-street parking requirements are met.

5. Off-street parking areas for multifamily developments.

6. Recreation facilities associated with multifamily developments.

d. Permitted Conditional Uses. The permitted conditional uses shall comply with the conditional use requirements of Schedule II in subsection 35-5.28, Conditional Uses.

1. Religious institutions: churches, synagogues, mosques, temples, convents, rectories, etc.

2. Educational institutions: Private and public elementary schools.

3. Community residences for the developmentally disabled; community shelters for victims of domestic violence; community residences for the terminally ill and community residences for persons with head injuries.

4. Hospital facilities, and their customary accessory structures and facilities.

5. Accessory parking on lots abutting commercial zone districts.

6. Fraternal organizations, lodges, community centers and other similar quasi-public uses.

7. Public Utility facilities.

e. Area, Yard and Structure Requirements. [Amended 8-19-2020 by Ord. No. O-20-45; 11-10-2020 by Ord. No. O-20-58]

1. Minimum area: Detached Single Family 3,000 square feet (interior lot) 4,000 square feet (corner lot) Detached Double Family 3,000 square feet (interior lot) 4,000 square feet (corner lot) Single family townhouse 2,000 square feet (interior lot) 3,000 square feet (corner lot) Double family townhouse 2,500 square feet (interior lot) 3,000 square feet (corner lot) Low Rise Apartments 1,000 square feet per unit 1,000 square feet per unit High Rise Apartments 400 square feet per unit

2. Minimum lot fronting: Detached Single Family 30 feet (interior lot) 40 feet (corner lot)

Detached Double Family 30 feet (interior lot) 40 feet (corner lot) Single family townhouse 20 feet (interior lot) 30 feet (corner lot) Double family townhouse 25 feet (interior lot) 30 feet (corner lot)

Low Rise Apartments 75 feet High Rise Apartments 100 feet

3. Minimum frontage setback: Detached Single Family 20 feet (interior lot) 20 feet (corner lot)

Detached Double Family 20 feet (interior lot) 20 feet (corner lot) Single family townhouse 20 feet (interior lot) 20 feet (corner lot) Double family townhouse 20 feet (interior lot) 20 feet (corner lot)

Low Rise Apartments (none) High Rise Apartments 1/2 Building Height

4. Minimum rear yard setback: Detached Single Family 20 feet (interior lot) 20 feet (corner lot)

Detached Double Family 20 feet (interior lot) 20 feet (corner lot) Single family townhouse 20 feet (interior lot) 20 feet (corner lot) Double family townhouse 20 feet (interior lot) 20 feet (corner lot)

Low Rise Apartments 20 feet (interior lot) 20 feet (corner lot) High Rise Apartments 1/2 Building

Height Accessory Structure: (All Uses) 3 feet (interior lot) 3 feet (corner lot)

5. Minimum Side Yard Principal Structure High Rise Apartments 1/2 Building Height All other
uses 3 feet, except that the combination of both side yards must be at least 6 feet Accessory
Structure: All Uses: 3 feet

6. Maximum structure height Principal Use Detached Single Family 35 feet and not exceeding 2
1/2 stories Detached Double Family 35 feet and not exceeding 2 1/2 stories Single family
townhouse 35 feet and not exceeding 2 1/2 stories Double family townhouse 35 feet and not
exceeding 2 1/2 stories Low Rise Apartments 40 feet, not exceeding 3 1/2 stories High Rise
Apartments 160 feet, not exceeding 14 stories Accessory Use Low Rise Apartments 20 feet and
not exceeding 2 stories High Rise Apartments 30 feet and not exceeding 3 stories All other Uses
15 feet and not exceeding 2 1/2 stories

7. Maximum lot coverage of principal and accessory structure 70%

8. Floor Area Ratio Low Rise apartments

1.5 High Rise Apartments

1.8 All other Uses (none)

f. Special Requirements.

1. None.

§ 35-5.6 Waterfront Development District. [Ord. No. O-95-12, § 33-5.5a; Ord. No. O-97-04, § 3]

a. Intent and Purpose. The Waterfront Development District is designed to allow for Planned Unit Development (PUD) of areas with a minimum contiguous area of 20 acres or more in locations with water exposure such as the vacant land at the southwestern tip of Bergen Point. This land with water exposure on almost three sides is ideally suited for planned development in order to realize the water amenities of the site, to develop the area as a single entity according to a comprehensive plan, and to provide viable land uses to one of the few large vacant areas of Bayonne. A plan may contain one or more residential clusters or planned unit residential developments and one or more public, quasi-public or commercial areas in such ranges or ratios of nonresidential uses to residential uses as are specified herein. The purpose of the Waterfront Development District shall be to encourage innovations in residential and nonresidential development and promote flexibility and economy in the layout and design of buildings.

b. Permitted Principal Uses. Permitted uses in the Waterfront Development District shall include Planned Unit Developments which include one or more of the following uses:

1. Single family attached dwellings, or townhouses.

2. Two family dwellings, or duplexes.

3. Multiple family dwellings.

4. Small scale retail stores and shops principally to serve residents of the district and surrounding neighborhoods.

5. Restaurants.

6. Theaters.

7. Offices, business, professional or governmental.

8. Medical/nursing care facility.

9. Commercial recreation uses.

10. Marinas, docks, boardwalks, wharfs and bulkheads used in connection with a use in the district.

11. Public and private boat launches.

12. Accessory uses, including: (a) Private garages. (b) Home occupations. (c) Tennis courts. (d) Swimming pools. (e) Utility buildings, incidental to any permitted use.

c. Required Conditions. The following requirements must be complied with in this zone.

1. Ownership. Any tract proposed for Planned Unit Development in the Waterfront Development District shall be not less than 20 acres and shall be in single ownership or under such unified control as to ensure that the entire tract will be developed as a unified whole. All owners of the tract shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.

2. Compatibility with Plans and Vicinity. Planned unit developments in the Waterfront Development District shall be planned and developed to be in harmony with the general purposes, goals, objectives and standards of this Zoning Ordinance, to avoid any substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the health, safety, and welfare of the City residents; to avoid any domination of the immediate vicinity or interference with the development and use of neighboring property in accordance with applicable zone designations, and to avoid any destruction, loss or damage of natural, scenic or historic features of significant importance.

3. Contribution for Off-Tract Water, Sewer Drainage and Street Improvements. Any developer of any parcel within the waterfront development district shall be required to pay his pro-rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities and easements therefore located outside of the development but necessitated or required by construction or improvements within such development. Such pro-rata share shall be apportioned and adequate security shall be required in accordance with the provisions of subsection 33-9.5, Off-Tract and Off-Site Improvements of Chapter 33, Planning and Development Regulations of the Revised General Ordinances of the City of Bayonne.

d. Setback and Height Requirements.

1. Height and District Boundary Line Setback Requirements. (a) Height Requirements.

Building height maximum requirements shall be as follows: Single family attached and duplexes

2.5 stories or 30 feet Townhouses

2.5 stories or 30 feet Multiple family dwellings 8 stories or 80 feet Nonresidential

buildings 4 stories or 45 feet Medical/nursing care facility 6 stories or 70 feet (b) Building setback from district boundary line. (1) Residential use setback. All residential uses, including medical or nursing care facilities providing overnight treatment, shall be located a minimum of 375 feet from the boundary line of any Heavy Industrial (I-H) District. (2) Multiple family dwellings exceeding six stories 70 feet in height shall be located a minimum of 500 feet from the boundary line of any Heavy Industrial (I-H) District. (3) All buildings exceeding two stories 30 feet in height shall be located a minimum of 200 feet from the boundary line of any Heavy Industrial (I-H) District.

2. Yard Setback and Minimum Lot Areas. Yard setback and minimum lot areas shall be as follows: (a) As per the requirements of the R-3 District for residential uses listed in the R-3 District. (b) For cluster, zero lot line or patio homes, a minimum setback of 20 feet shall be maintained from all external roads; internal yard and setback requirements shall be determined at the time of site plan application except that driveways shall have a minimum length of 20 feet. (c) In its review of the proposed yard and setback requirements, the Planning Board shall insure through other agencies that the building meets fire code standards, or any local or State public health and safety requirements. In its review of proposed yards and setbacks, the Planning Board shall make sure that the development is compatible with and sensitive to the character of adjacent or neighboring land uses in terms of the design, orientation, scale, bulk and heights of the buildings and uses proposed. Potential conflicts shall be mitigated by provision within the planned unit development of adequate setbacks and buffering between the development and neighboring uses.

3. Maximum Density or Intensity of Development. Gross residential density shall not exceed 30 dwelling units per acre of residential area. The maximum nonresidential intensity or lot area, excluding marine-oriented uses, shall be no greater than 20% of the development. The total floor area of all nonresidential buildings shall not exceed 180% of the nonresidential lot area. Retail uses shall not exceed 50% of the total nonresidential floor area. In the cases of a planned development to be developed in sections or stages, the gross density, or overall intensity of any section or sections may exceed these maximum standards provided it is offset by a lower density or intensity for subsequent sections.

4. Coverage. (a) Coverage of residential building shall not exceed 30% of the residential area.

The maximum impervious coverage in residential areas shall be limited to 50%. (b) Coverage of all other buildings shall not exceed 40% of the nonresidential area. The maximum impervious coverage in nonresidential areas shall be limited to 80%. (c) Commercial building shall be set back a minimum distance of 20 feet from exterior lot line.

5. Buffers Adjacent to I-H District. Wherever the WD Waterfront Development District boundary

adjoins an I-H Heavy Industrial Zoning District, a buffer area shall be provided of not less than 100 feet in width. 50% of the required buffer width closest to the district boundary shall be provided with a continuous berm, which shall be not less than six feet in height. When breaks in the berm are required to provide for adequate drainage, berm sections shall overlap to provide an unbroken visual screen. Berms shall be laid out in a curvilinear manner to replicate soft, natural landforms. No slope shall exceed a ratio of three foot horizontal distance to one foot vertical distance. A shallowly convex crest, a minimum of 20 feet in width, shall be formed on all berms. Berms shall be planted with a mixture of 40% deciduous and 60% evergreen trees and shrubs so as to provide an opaque year-round visual screen after three years' growth, when viewed at an elevation of five to six feet above the top of the berm. The plantings in the buffer areas shall consist of low-maintenance plants, which are adaptable to the soil and climatic conditions of the site. Hardy, non-invasive, disease resistant, and long-lived species, which require little pruning are preferred. Deciduous material used for continuous screening purposes shall not be of a species which is typically killed to the ground in winter. Buffer plantings shall be placed within a continuous mulched bed. No single planting bed shall exceed 200 feet in length. Ends of sequential beds shall be arranged in an overlapping manner to protect the integrity of the visual buffer. The following sizes shall be minimums at installation: evergreen trees shall be six feet in height, shade trees shall be two inches in caliper, flowering trees shall be eight feet in height, upright shrubs shall be 2 1/2 feet in height, spreading shrubs shall be 18 inches in spread. The maximum shrub spacing shall be no more than five feet on center for shrubs with an average spread of up to eight feet. Spacing of up to 10 feet on center may be allowed for large shrubs which attain mature spreads of over eight feet within five years of planting. A three inch layer of mulch shall be placed in all planting areas to help retard weed growth, help the soil retain moisture, and become a natural soil additive when annually cultivated into the soil. The remaining 50% of the buffer width may be used for parking, circulation, or open space, but shall not be used for any buildings intended for human occupancy.

6. Buffers Adjacent to the IL-A District. Wherever the WD Waterfront Development District boundary adjoins an IL-A Light Industrial Zoning District, including situations in which uses are separated by an intervening public street, a buffer area shall be provided of not less than 25 feet in width. The portion of the tract which is closest to the district boundary shall be provided with a solid visual planting screen which shall be unbroken except for openings necessary to provide for driveways, walkways and adequate sight distances. This screen shall consist of a mixture of deciduous and evergreen trees and shrubs, planted to the specifications of subparagraph d5 above, except that berming is not required and the five to six-foot high opaque year-round visual screen shall be measured from ground level. An opaque, decorative masonry wall of not less than six feet in height may be substituted for the high level landscaped buffer adjacent to an IL-A District upon the approval of the Planning Board. In the event a decorative masonry wall is selected, the remaining portion of the buffer yard shall be planted with deciduous and evergreen trees, shrubs, lawn, ground cover, and other plantings provided, however, that an opaque visual screen need not be obtained. No portion of the required buffer yard shall be utilized for any buildings intended for human occupancy or for off-street parking.

e. Off-Street Parking and Loading. Off-street parking and loading for uses in this district shall be provided in accordance with the requirements of Section 35-17.

f. Signs.

1. For residential buildings, an identification sign of four square feet shall be permitted.

2. An entrance sign of 12 feet identifying the Planned Unit Development is permitted.

3. A freestanding sign shall not exceed a height of 12 feet from the ground level to the top of the sign.

4. For nonresidential buildings, one sign mounted flush on wall up to 12 square feet or 15% of front facade whichever is less.

g. Common Open Space. Common open space, consisting of at least 30% of the overall site shall be provided, preserved, and/or improved in a manner which maximizes its benefits to the character and quality of the uses therein. Common open space shall be arranged in a manner which preserves and draws benefits from environmentally sensitive features on the site. Common space may include passive, active recreational amenities and marinas. Lands included as common open space shall encompass all areas that are not used for buildings, streets, off-street parking and loading areas and may include yard, setback and buffer areas, pedestrian walkways, outdoor and covered plazas and eating areas. Common open space areas shall be owned permanently, preserved and maintained either through (a) common ownership by a Homeowner's Property, or Condominium Owner's Association or Associations which assume full responsibility for their maintenance; or (b) deed-restricted private ownership which precludes against subsequent subdivision or development of the common open space areas and provides the maintenance responsibility; or (c) a combination thereof; or interest therein as it may accept for public use or maintenance. All Homeowner's Property, or Condominium Owner's Associations established to own and maintain common open space shall operate in accordance with the rules and guidelines under N.J.S.A. 40:55D-43.

h. Procedural Requirements. Applications for and approval of planned unit development shall be in accordance with general development provisions as well as the Planned Unit Development application and approval provisions of Chapter 33, Planning and Development Regulations of the Revised General Ordinances.

§ 35-5.7 WR Planned Waterfront Recreation District. [Ord. No. O-97-43, § 3; Ord. No. O-01-19 § 10 [33-5.6]]

a. Intent and Purpose. The Planned Waterfront Recreation (WR) District is designed to allow for planned commercial recreational development in appropriate areas with a minimum contiguous tract of 45 acres or more located along the waterfront. The land is ideally suited for recreational development in order to provide needed public access and recreational opportunities along the waterfront. The purpose of the Planned Waterfront Recreation District shall be to facilitate development of recreation facilities.

b. Permitted Principal Uses.

1. Golf courses.

2. Commercial recreation uses.

3. Public and private boat/ferry launches, including marinas.

4. Fishing piers.

5. Wildlife sanctuaries.

c. Permitted Accessory Uses.

1. Uses that are customarily incidental to a permitted principal use.

2. For golf courses, accessory uses shall include clubhouse facilities, a restaurant/dining facility, maintenance and utility facilities and retail shops to serve golf course patrons and local residents.

d. Conditional Uses. Subject to the provisions of Schedule II under subsection 35-5.28,
Conditional Uses:

1. Private helistop.

2. (Reserved)

e. Area, Yard and Structure Requirements.

1. Minimum tract area: 45 acres.

2. Minimum lot size: one acre.

3. Minimum setback for buildings: 35 feet to a property line or water line.

4. Minimum setback for recreational facilities, including tees/fairways/greens/cartpaths:
35 feet to a zone line or property line.

5. Maximum impervious coverage: 50% per planned development tract; 70% per individual lot.
[Amended 11-10-2020 by Ord. No. O-20-58]

6. Maximum open space: as required by paragraph e of this subsection.

7. Maximum height: 2 1/2 stories or 40 feet and not exceeding a maximum ground elevation of 50 feet above sea level.

f. Other Requirements.

1. Planned Development. Any tract proposed for development in the Planned Waterfront Recreation District shall not be less than 45 acres and shall be in single-ownership or under such unified control as to ensure that the entire tract will be developed as a unified whole. All owners of the tract shall be included as joint applicants on all applications and all approvals shall bind all owners. A violation by any owner as to any tract shall be deemed a violation as to all owners whose tracts are part of the application.

2. Public Access. (a) A Waterfront Walkway easement measuring a minimum of 30 feet in width shall be provided along the waterfront. (b) A paved walkway at least 16 feet in width shall be provided within the easement. (c) The walkway shall be designed to conform to the Hudson River Waterfront Walkway Technical Design Standards prepared by the New Jersey Department of Environmental Protection.

3. Open Space. This district proposes a mix of recreational uses together with supporting facilities. To maximize the quality and character of the waterfront amenities and the intended recreation purposes, at least 50% of the overall planned development site shall be devoted to open space improvements and preservation. Open space may include lands devoted to any uses permitted in the area and shall include all lands under private ownership as well as any land which may be dedicated to public use. Lands included as open space shall encompass all areas that are not used for buildings, streets or off-street parking and loading areas and may include, by way of example and not limitation, yard, setback and buffer areas, pedestrian walkways, outdoor and covered plazas and eating areas, fishing piers, marinas and wildlife sanctuaries.

4. Contribution for Off-Tract Water, Sewer, Drainage and Street Improvements. Any developer of any parcel within the WR District shall be required to pay his or her pro-rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities and easements therefor located outside of the development but necessitated or required by construction of improvements within such development. Such pro-rata share shall be apportioned and adequate security shall be required in accordance with the provisions of subsection 33-9.5, Off-Tract and Off-Site Improvements of Chapter 33, Planning and Development Regulations of the Revised General Ordinances of the City of Bayonne.

5. Procedural Requirements. Applications for and approval of development within the WR District shall be in accordance with the general development provisions and approval provisions of Section 33-4 of Chapter 33, Planning and Development Regulations of the Revised General Ordinances of the City of Bayonne.

6. Off-Street Parking and Loading. Off-street parking and loading for uses in this district shall be provided in accordance with the requirements of Section 35-17. The required number of parking spaces for uses not indicated in Section 35-17 shall be determined by the Board based upon submission of a traffic study.

§ 35-5.8 C-1 Neighborhood Commercial District. [Ord. No. O-01-19 § 11 [33-5.7]; Ord. No. O-05-35 § 1]

a. Permitted Uses.

1. Retail commercial not exceeding 2,000 square feet of ground floor, except that the following are not permitted: (a) Thrift stores, second hand stores, pawn and consignment shops. (b) Shops which offer for sale fire arms and/or ammunition.

2. Personal service establishments limited to: (a) Barber shops and beauty shops. (b) Tailoring and dressmaking shops. (c) Dry cleaners and laundry collection shops. (d) Shoe repair shops. (e) Appliance repair shops. (f) Radio, television and video repair shops. (g) Self-service laundry. (h) Travel agencies. (i) Branch banks.

3. Professional offices.

4. Business offices.

5. Neighborhood restaurants (pedestrian oriented).

6. Primary liquor service establishment.

7. Printing, desktop publishing or book binding.

8. Government offices including Federal, State, County or Municipal buildings and grounds, but excluding schools.

9. Lodges, clubs and fraternal organizations.

10. Dwelling apartment uses on floors above the street level floor, provided, however, each dwelling apartment shall have a minimum of 600 square feet of habitable floor area, and shall have no more than two bedrooms.

11. Essential services.

12. Cannabis retailers licensed by the State of New Jersey and the City of Bayonne.

[Added 3-17-2021 by Ord. No. O-21-13]

b. Required Accessory Uses.

- 1. Off-street parking subject to the provisions of Section 35-17.**
- 2. Buffers and screening subject to the provisions of subsection 35-4.14.**

c. Permitted Accessory Uses.

- 1. Sidewalk cafes subject to the restrictions set in Chapter 21, Section 21-32, et seq.**
- 2. Fences subject to the provisions of subsection 35-4.14.**
- 3. Signs subject to the provisions of Section 35-25.**
- 4. Off-street loading subject to the provisions of subsection 35-17.8.**

d. Conditional Uses. Subject to provisions of Schedule II in subsection 35-5.28,

Conditional Uses:

- 1. Funeral homes.**

2. Churches and places of worship.

3. Educational uses.

4. Motor vehicle repair garages.

e. Yard and Structure Requirements.

1. Minimum lot area: No requirements.

2. Minimum lot frontage: 30 feet.

3. Minimum front setback: No requirements.

4. Minimum rear setback: 20 feet.

5. Minimum Side Yard Setback: No requirements, except abutting a residential zone district or existing residential use: 10 feet.

6. Maximum structure height: 35 feet and not exceeding three stories.

7. Maximum lot coverage of principal and accessory structures: 60%. (a) Minimum unoccupied open space: 15%. (b) Maximum floor area ratio (FAR): 2.4.

§ 35-5.9 C-2 Community Commercial District. [Ord. No. O-01-19 § 12 [33-5.8]]

a. Permitted Uses.

1. All permitted principal uses in the C-1 District.

2. Fully enclosed retail shops and stores: (a) Appliance stores. (b) Antique stores, provided no auctions are conducted on the premises. (c) Art galleries and artist supply stores. (d) Bakeries or baker's outlets. (e) Banks, building and loan associations or similarly chartered financial institutions. (f) Carpet, rug, and linoleum stores. (g) Display rooms for mail order sales. (h) Dry goods stores. (i) Medical and optometric supply stores. (j) Office supply stores. (k) Paint and wallpaper stores. (l) Pet shops, with no kennel or breeding facilities, limited to 1,500 square feet of floor area. (m) Sporting goods stores. (n) Supermarkets, with no animal or fowl killing or live storage. (o) Wearing apparel shops. (p) Plumbing sales and contracting.

3. Fully enclosed service establishments: (a) Clock shops. (b) Interior decorating establishments. (c) Laundries, laundrettes, dry cleaning and pressing establishments. (d) Locksmith shops. (e) Shoe repair shops. (f) Printing and copy shops.

4. Food, dining and beverage facilities: (a) Catering facilities. (b) Restaurants or lunch rooms. (c) Taverns, bars, or package good stores for the sale of alcoholic beverages.

5. Planned shopping centers, containing permitted uses in this district, as well as department stores, movie theaters, indoor recreation facilities and discount stores, subject to the bulk and density regulations of this chapter.

b. Required Accessory Uses.

1. See Accessory Uses in the C-1 District.

c. Permitted Accessory Uses.

1. Permitted accessory uses in the C-1 District.

2. Storage of plumbing supplies provided they are properly screened from adjacent uses.

d. Permitted Conditional Uses.

1. Permitted conditional uses in the C-1 District.

2. Drive-thru facilities as an accessory use.

e. Area, Yard and Structure Requirements.

1. Minimum area: No requirements.

2. Minimum lot fronting: 30 feet.

3. Minimum front setback: No requirements.

4. Minimum rear yard setback: 20 feet. Accessory Structure:

5. Minimum side yard setback: No requirements except abutting a residential zone district or existing residential use: 10 feet.

6. Maximum structure height: 35 feet and not exceeding three stories.

7. Maximum lot coverage of principal and accessory structure: 60%.

f. Special Requirements.

1. Limited Commercial Overlay Zone District. Based on the fact that billboard messages are constitutionally protected free speech and that the State of New Jersey has adopted the Roadside Sign Control and Outdoor Advertising Act (N.J.S.A. 27:5-5 et seq.) and Regulations (N.J.A.C. 16:41C-1.1 et seq.) to balance the need to control and regulate roadside signs and outdoor advertising, promote the scenic beauty of the state, provide for the safety and convenience of the public and the need to stimulate economic and commercial activity within the State of New Jersey and because the City in the past prohibited billboards everywhere within its municipal boundaries; the City Zoning Ordinance is amended to permit billboards in certain areas adjacent to the New Jersey Turnpike known as a Limited Commercial Overlay Zone District where it is believed that billboards are an appropriate permitted use; will have no impact on residential uses or zones within the City and will have no impact if provided as a limited commercial use.

2. A limited commercial use billboard is one consisting of the following elements and criteria: (a)

The billboard is no more than 200 feet from the New Jersey Turnpike property line. (b) The billboard is designed and constructed for the advertising surface to be viewed primarily by motorists from the New Jersey Turnpike. (c) The billboard shall be no closer than 200 feet from a residential zone. (d) The maximum height of the billboard shall be 50 feet as measured from the finished elevation of the New Jersey Turnpike at the point along the New Jersey Turnpike where the sign is located. (e) The minimum distance between billboards shall be 2,000 feet along the same side of the New Jersey Turnpike. (f) A limited commercial use billboard may have two advertising surfaces, one for each direction of travel on the New Jersey Turnpike. (g) The maximum permitted advertising area showing in one direction shall not exceed 672 square feet. Copy extensions and/or cutouts beyond the basic billboard shall not exceed 10% of the basic billboard area. (h) Lighting for a limited commercial use billboard shall be designed to restrict glare and spillover to the adjoining areas. (i) The applicant shall comply with the Roadside Sign Control and Outdoor Advertising Act (N.J.S.A. 27:5-5 et seq.) and Regulations (N.J.A.C. 16:41C-1.1 et seq.), as well as any other applicable statutes, laws and regulations related to billboards.

3. Other permitted uses. Because of the Limited Commercial Nature of the Overlay District, only non-intensive permitted commercial 'C-2' uses will be permitted in this area. These less intensive uses include: (a) Small scale retail stores not exceeding 2,000 square feet in area. (b) Essential services as defined under Chapter 33, Planning and Development Regulations, subsection 33-2.2, Definition of Terms. All other permitted commercial uses in the C-2 Zone District are restricted except for the permitted conditional uses. Under Conditional Uses the only conditional use that is restricted is motor vehicle repair garages due to their intensity.

§ 35-5.10 CBD Central Business District (Broadway Corridor). [Ord. No. O-01-19 § 13 [33-5.9.1]; Ord. No. O-05-35 § 1; Ord. No. O-06-14 § 1]

a. Permitted Uses.

1. Professional office.

2. Business office.

3. Retail commercial uses.

4. Banks and deposit institutions.

5. Restaurant establishments.

6. Movie theaters.

7. Cultural centers.

8. Dance instruction studios.

9. Fast food service establishments (pedestrian oriented).

10. Dwelling apartment uses on floors above the street level floor, provided, however, each dwelling apartment shall have a minimum of 600 square feet of habitable floor area, and shall have no more than two bedrooms.

11. Essential services.

12. Government offices.

13. Fitness centers, health spas, gymnasiums and establishments offering sports and recreation instruction including but not limited to baseball, martial arts and soccer.

14. Cannabis retailers licensed by the State of New Jersey and the City of Bayonne. [Added 3-17-2021 by Ord. No. O-21-13]

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

2. Off-street loading subject to the provisions of subsection 35-17.8.

3. Buffers and screening subject to the provisions of subsection 35-4.14.

c. Permitted Accessory Uses.

1. Sidewalk cafes subject to Chapter 21, Section 21-32, et seq.

2. Fences subject to the provisions of subsection 35-4.14.

3. Signs subject to the provisions of Section 35-25.

4. Vertical parking garages subject to the provisions of Section 35-4.

d. Conditional Uses: Subject to the provisions of Schedule II in subsection 35-5.28,
Conditional Uses:

1. Educational uses.

2. Commercial parking facilities.

e. Area, Yard and Structure Requirements.

1. Minimum area: 3,000 square feet.

2. Minimum lot frontage: 30 feet.

3. Minimum front yard setback: zero.

4. Minimum rear yard setback: 20 feet. Accessory Structure: five feet.

5. Minimum side yard setback: zero or prevailing (see paragraph f below)

6. Maximum structure height: five stories and 55 feet.

7. Maximum lot coverage of principal and accessory structure: 70%. [Amended 11-10-2020 by Ord. No. O-20-58]

8. Maximum floor area ratio: 4.0.

9. Maximum floor area ratio with bonus densities: 4.50.

f. Special Requirements.

1. FAR Bonus Densities. Use/Facility Improvement Bonus Ratio FAR Cap Day-care center/nurseries 1:5

0.20 Historic preservation 1:10

0.25 Streetscape design improvement 1:10

0.25 Renovation of front building facade 1:5

0.20 Development of new compatible signage 1:10

0.25 Plaza improvement 1:8

0.50 Gateway design and improvement 1:8

0.50 All of the above FAR bonus densities cannot exceed 0.50 in any combination for any one development application.

2. If off-street requirements are not met as provided above the developer must: (a) Obtain approval of a parking space variance subject to the provisions of Subsection 35-17.7; and (b) Contribute to the City of Bayonne Municipal Parking Authority Improvement Fund, an amount in accordance with the "Parking Deficiency Schedule." Parking Deficiency Schedule Deficiency Cost/Space 0 to 10 0 11 to 20 \$500/space 21 to 40 \$1,000/space over 20 41 and above \$2,000/space over 40 (c) Example: A 42 space deficiency requires \$0 for space 0-10, plus \$5,000 for space 11-20; plus \$20,000 for space 21-40; plus \$4,000 for space 41 and 42 (d) Total Equals \$29,000.

3. All applications for development in this zone on properties abutting or contiguous with Broadway must not utilize curb cuts along the roadway in order to preserve the integrity and continuity of the streetscape within this zone district.

4. All applications for development in this zone are limited to providing parking only in rear yard. Parking in the front yard is prohibited.

§ 35-5.11 Uptown Business District (Broadway Corridor). [Ord. No. O-01-19 § 13 [33-5.9.2]; Ord. No. O-05-35 § 1; Ord. No. O-06-14 § 1]

a. Permitted Uses.

1. Professional and medical office.

2. Business office.

3. Banks and deposit institutions.

4. Boutique (retail stores).

5. Other retail commercial uses with exception of thrift stores; pawn shops and shops which offer for sale fire arms and/or ammunition; massage parlors; tattoo parlors and palm reading and psychics.

6. Dwelling apartment uses on floors above the street level floor, provided, however each dwelling apartment shall have a minimum of 600 square feet of habitable floor area, and shall have no more than two bedrooms.

7. Fitness centers, health spas, gymnasiums and establishments offering sports and recreation instruction including but not limited to baseball, martial arts and soccer.

8. Cannabis retailers licensed by the State of New Jersey and the City of Bayonne. [Added 3-17-2021 by Ord. No. O-21-13]

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

2. Off-street loading subject to the provisions of subsection 35-17.8.

3. Buffers and screening subject to the provisions of subsection 35-4.14.

4. (Reserved)

c. Permitted Accessory Uses.

- 1. Fences subject to the provisions of subsection 35-4.14.**
- 2. Vertical parking garages subject to the provisions of Section 35-4.**

d. Conditional Uses. Subject to the provisions of Schedule II in subsection 35-5.28,
Conditional Uses:

- 1. Educational uses.**
- 2. MXRD-major mixed use residential development.**
- 3. MXCD-major mixed use commercial development.**
- 4. Home professional office.**

e. Area, Yard and Structure Requirements.

- 1. Minimum area: 3,000 square feet.**
- 2. Minimum lot frontage: 30 feet.**

3. Minimum frontage setback: zero.

4. Minimum rear yard setback 20 feet. Accessory Structure: five feet.

5. Minimum side yard setback: None.

6. Maximum structure height: 3.5 stories and 45 feet.

7. Maximum lot coverage of principal and accessory structure: 70%. [Amended 11-10-2020 by Ord. No. O-20-58]

8. Maximum floor area ratio: 3.20.

f. Special Requirements.

1. If off-street parking requirements are not met as provided above the developer must:

(a) Obtain approval of a parking space variance subject to the provisions of Subsection 35-17.7; and (b) Contribute to the City of Bayonne Municipal Parking Authority Improvement Fund, an amount in accordance with the "Parking Deficiency Schedule." Parking Deficiency Schedule Deficiency Cost/Space 0 to 10 0 11 to 20 \$500/space 21 to 40 \$1,000/space over 20 41 and above \$2,000/space over 40 (c) Example: A 42 Space deficiency requires \$0 for space 0-10, plus \$5,000 for space 11-20; plus \$20,000 for space 21-40; plus \$4,000 for space 41 and 42 - Total Equals \$29,000.

§ 35-5.12 ORS Office/Retail Service District (Broadway Corridor). [Ord. No. O-01-19 § 13 [33-5.9.3]; Ord. No. O-05-35 § 1; Ord. No. O-06-14 § 1]

a. Permitted Uses.

1. Professional and business offices.

2. Government offices including Federal, State, County or municipal buildings and grounds.

3. Lodges and clubs.

4. Retail commercial uses as in C-1 zone.

5. Essential services.

6. Multifamily dwellings on floors above street level floor provided.

7. Townhouse development.

8. Fitness centers, health spas, gymnasiums and establishments offering sports and recreation instruction including but not limited to baseball, martial arts and soccer.

9. Cannabis retailers licensed by the State of New Jersey and the City of Bayonne. [Added 3-17-2021 by Ord. No. O-21-13]

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

2. Off-street loading subject to the provisions of subsection 35-17.8.

3. Buffers and screening subject to the provisions of subsection 35-4.14.

c. Permitted Accessory Uses.

1. Fences subject to the provisions of subsection 35-4.14.

2. Signs subject to the provisions of Section 35-25.

3. (Reserved)

d. Conditional Uses. Subject to the provisions of Schedule II in subsection 35-5.28,
Conditional Uses:

1. Churches and places of worship.

2. Nursery schools/day care centers.

3. MXRD (Major Mixed Use Residential Development).

4. MXCD (Mixed Use Commercial Development).

e. Area, Yard and Structure Requirements.

1. Minimum area: No requirements.

2. Minimum lot frontage: 35 feet.

3. Minimum front yard setback: No requirements.

4. Minimum rear yard setback: 20 feet. Accessory structure: six feet.

5. Minimum side yard setback: zero.

6. Maximum structure height: 35 feet and three stories.

7. Maximum lot coverage of principal and accessory structure: 70%. [Amended 11-10-2020 by Ord. No. O-20-58]

8. Maximum floor area ratio: 2.80.

§ 35-5.13 H-C Highway Commercial/Selected Light Industrial District. [Ord. No. O-01-19 § 14 [33-5.9A]]

a. Permitted Uses.

1. Business, Executive and Administrative Offices.

2. Research and Scientific Laboratories, High Tech/Telecommunications, Computer/Information Facilities.

3. Commercial/retail/wholesale establishments.

4. Printing, Publishing and Bookbinding Establishments.

5. Light fabrication and assembly uses.

6. Limousine, Tax and Car Livery Services.

7. Government offices including Federal, State, County and municipal buildings and grounds but excluding schools.

8. Essential services.

9. Motor Vehicle Repair.

10. Motor Vehicle Service Station.

11. New Automobile Sales and Service.

12. Cannabis suppliers or cannabis retailers licensed by the State of New Jersey and the City of Bayonne. [Added 3-17-2021 by Ord. No. O-21-13]

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

2. Off-street loading subject to the provisions of subsection 35-17.8.

3. Buffer and screening subject to the requirements of subsection 35-4.14.

c. Permitted Accessory Uses.

1. Fences subject to the provisions of subsection 35-4.14.

2. Off-street loading with enclosed storage structures.

3. Signs, subject to the provisions of Section 35-25.

d. Conditional Uses. Subject to the provisions of Schedule II in subsection 35-5.28,
Conditional Uses:

1. Public and Quasi-public recreational uses.

2. Public utilities.

3. Car washes.

4. Hotel.

5. Indoor recreation facilities.

6. Movie theaters.

7. Commercial Parking Facilities.

8. Commercial Earth Terminals.

9. Signs (Which are conditional uses).

e. Area, Yard and Structure Requirements.

1. Minimum lot area: Two Acres.

2. Minimum lot frontage: 200 feet.

3. Minimum front setback: No requirements. (a) For any structure exceeding 35 feet in height: Two feet for each five feet of building height. (b) In no case shall any structure be less than 40 feet from the center line of a street.

4. Minimum rear yard setback: 10 feet, except: (a) Abutting a residential zone district or existing residential use: 25 feet. (b) For any structure exceeding 35 feet in height, a minimum of two feet per each five feet of structure height.

5. Minimum side yard setback: No requirements, except: (a) Abutting a residential zone district or existing residential use: 25 feet. (b) For any structure exceeding 35 feet in height, a minimum of two feet per each five feet of structure height.

6. Maximum building height: 50 feet and not exceeding four stories.

7. Maximum lot coverage of principal and accessory structures: 65%.

8. Minimum unoccupied open space: 15%.

9. Maximum floor area ratio: No requirements.

f. Special Requirements.

1. If off-street parking requirements are not met as provided above, the developer must:

(a) Obtain approval of a parking space variance subject to the provisions of subsection

35-17.7; and (b) Contribute to the City of Bayonne Municipal Parking Authority

Improvement Fund, an amount in accordance with the "Parking Deficiency Schedule."

Parking Deficiency Schedule Deficiency Cost/Space 0 to 10 0 11 to 20 \$500/space 21 to 40

\$1,000/space over 20 41 and above \$2,000/space over 40 (c) Example: A 42 space

deficiency requires \$0 for space 0-10, plus \$5,000 for space 11-20; plus \$20,000 for space

21-40; plus \$4,000 for space 41 and 42-Total Equals \$29,000.

§ 35-5.14 TDD Transit Development District. [Ord. No. O-01-19 § 15 [33-5.9B]]

a. Permitted Uses.

1. Detached and attached single family dwellings.

2. Detached two-family dwellings.

3. Multifamily dwellings known as townhouses at a density not to exceed 75 dwelling units per acre.

4. Multifamily dwellings known as garden apartments or apartment houses at a density not to exceed 150 dwelling units per acre.

5. Professional and business offices.

6. Retail commercial uses not more than 2,500 square feet on the street level of Avenue "E."

7. Personal service establishments except: (a) Massage parlors. (b) Tattoo parlors/body piercing. (c) Tarot, palm readings, psychics.

8. Home professional offices.

9. Banks and deposit institutions without drive-up facilities.

10. MXRD (Major Mixed Use Residential Development).

11. Government offices including federal, state, county or municipal building and grounds but excluding schools.

12. Essential services.

13. (Reserved)

b. Required Accessory Uses.

- 1. Off-street parking subject to the provisions of Section 35-17.**
- 2. Off-street loading subject to the provisions of subsection 35-17.8.**
- 3. Buffers and screening subject to the provisions of subsection 35-4.14.**

c. Permitted Accessory Uses.

- 1. Fences subject to the provisions of subsection 35-4.14.**
- 2. Private garage space for the limited storage of motor vehicles, provided that, garages** accessory to any use other than detached single and double family dwellings shall be arranged to open to the side or rear of the lot.
- 3. Signs subject to the provisions of Section 35-25.**
- 4. Vertical parking garage subject to provisions of Section 35-4.**
- 5. Private sheds, tool houses, decks, swimming pools and other structures customarily** associated with a residential use when accessory to detached single and double-family dwellings on a single lot.

d. Conditional Uses Subject to the Provisions of Schedule II under subsection 35-5.28,
Conditional Uses.

1. Churches.

2. Public utilities.

3. Nursery Schools and child care centers.

4. Community residences for the developmentally disabled and community shelters for victims of domestic violence.

5. Mixed use commercial development.

6. Signs which are conditional uses.

e. Area, Yard and Structure Requirements.

1. Minimum Lot Area: (a) Detached single family (interior) 3,000 square feet. Detached single family (corner) 4,000 square feet. (b) Detached double family (interior) 3,000 square feet. Detached double family (corner) 4,000 square feet. (c) Attached single family 20,000 square feet. (d) Garden apartments 45,000 square feet. (e) Apartment houses 30,000 square feet. (f) Townhouses 25,000 square feet. (g) MXRD 42,000 square feet. (h) Other uses No requirement.

2. Minimum Lot Frontage: (a) Detached single family (interior) 30 feet. Detached single family (corner) 40 feet. (b) Detached double family (interior) 30 feet. Detached double family (corner) 40 feet. (c) Attached single family 140 feet. (d) Garden apartments 150 square feet. (e) Apartment houses 150 square feet. (f) Townhouses 100 square feet. (g) MXRD 150 square feet. (h) Other uses 100 square feet.

3. Minimum Front Yard Setbacks: (a) Detached single family 20 feet. (b) Detached two-family 20 feet. (c) Attached single family 15 feet. (d) Garden apartments 40 feet. (e) Apartment houses 30 feet. (f) Townhouses 25 feet. (g) MXRD No requirement. (h) Other uses 20 feet. (i) In no case shall any structure be less than 40 feet from the center line of the street.

4. Minimum Rear Yard Setback: (a) Principal structure 20 feet. (b) Accessory structure five feet.

(c) Minimum Side Yard Requirement: (Reserved) (d) Maximum structure height: 55 feet and not to exceed five stories (See Schedule 1). (e) Minimum Gross Habitable Floor Area: One story – 900 square feet. Two stories – 1,000 square feet per unit with at least 700 square feet of ground floor area Garden apartments and apartment houses – 1,000 square feet per unit with at least 600 square feet of ground floor area Townhouses – 1,000 square feet per unit with at least 700 square feet of ground floor area (f) MXRD - (Reserved) (g) Other uses - No requirement.

5. Maximum Lot Coverage of Principal and Accessory Structures: (a) Detached single family

35%. (b) Attached single family 40%. (c) Garden apartments 45%. (d) Apartment houses 75%. (e) Townhouses 50%. (f) MXRD 75%. (g) Other uses 50%.

6. Minimum Unoccupied Open Space. (a) Detach single family No requirements. (b) Attached single family No requirements. (c) Garden apartments 25%. (d) Apartment houses 15%. (e) Townhouses 20%. (f) MXRD 30% (Reserved) (g) Other uses 15%.

7. Maximum Floor Area Ratio: (a) Nonresidential use 3.00 (b) Mixed uses 2.50

§ 35-5.15 TDO-Transit Development Overlay District. [Ord. No. O-01-19 § 15 [33-5.9C]]

a. Permitted Uses.

1. Multifamily dwellings known as townhouses at a density not to exceed 90 dwelling units per acre.

2. Multifamily dwellings known as garden apartments or apartment houses at a density not to exceed 160 dwelling units per acre.

3. Professional and business offices.

4. Retail commercial uses not more than 2,500 square feet on the street level of Avenue "E."

5. Personal service establishments except: (a) Massage parlors. (b) Tattoo parlors/body piercing. (c) Tarot, palm readings, psychics.

6. Home professional offices.

7. Banks and deposit institutions without drive-up facilities.

8. MXRD (Major Mixed Use Residential Development)

9. MXCD (Major Mixed Use Commercial Development)

10. Government offices including federal, state, county or municipal building and grounds but excluding schools.

11. Essential services.

b. Required Accessory Uses.

1. Off-street parking subject to the provisions of Section 35-17.

2. Off-street loading subject to the provisions of subsection 35-17.8.

3. Buffer and screening subject to the provisions of subsection 35-4.14.

c. Permitted Accessory Uses.

1. Fences subject to the provisions of subsection 35-4.14.

2. Private garage space for the limited storage of motor vehicles, provided that, the garage attached or detached shall be arranged to open to the side or rear of the lot.

3. Signs subject to the provisions of Section 35-25.

d. Conditional Uses: Subject to the provisions of Schedule II in subsection 35-5.28,
Conditional Uses:

1. Public utilities.

2. Nursery Schools and child care centers.

3. Community residences for the developmentally disabled and community shelters for victims of domestic violence.

4. Signs which are conditional uses.

e. Area, Yard and Structure Requirements.

1. Minimum lot area: (a) Garden Apartments: 45,000 square feet. (b) Apartment houses: 30,000 square feet. (c) Townhouses: 25,000 square feet. (d) MXRD: 42,000 square feet. (e) Other uses: No requirement.

2. Minimum Lot Frontage: (a) Garden Apartments: 150 square feet. (b) Apartment houses: 150 square feet. (c) Townhouses: 100 square feet. (d) MXRD: 150 square feet. (e) Other uses: 100 square feet.

3. Minimum Front Yard Setbacks: (a) Garden Apartments: 40 feet. (b) Apartment houses: 30 feet. (c) Townhouses: 25 feet. (d) MXRD: No requirement. (e) Other uses: 20 feet. (f) In no case shall any structure be less than 40 feet from the centerline of the street.

4. Minimum rear yard setback: (a) Principle structure: 25 feet. (b) Accessory structure: five feet.

5. Minimum side yard requirement: (Reserved)

6. Maximum structure height: 75 feet and not to exceed seven stories (see Schedule I).

7. Minimum Gross Habitable Floor Area: (a) One story: 900 square feet. (b) Two stories:
1,000 square feet per unit at least 700 square feet of ground floor area. (c) Garden
apartments and apartment houses: 1,000 square feet per unit with at least 600 square feet
of ground floor area. (d) Townhouses: 1,000 square feet per unit with at least 700 square
feet of ground floor area. (e) MXRD: (Reserved) (f) Other uses:: No requirement.

8. Maximum Lot Coverage of Principal and Accessory Structures: (a) Garden apartments: 45%. (b) Apartment houses: 75%. (c) Townhouses: 50%. (d) MXRD: 75%. (e) Other uses: 50%.

9. Minimum Unoccupied Open Space. (a) Garden apartments: 15%. (b) Apartment houses: 10%. (c) Townhouses: 15%. (d) MXRD: 20%. (e) Other uses: 15%.

10. Maximum Floor Area Ratio: (a) Nonresidential use: 3.5. (b) Mixed uses: 3.0.

f. Special Requirements.

1. If off-street parking requirements are not met as provided above the developer must:

(a) Obtain approval of a parking space variance subject to the provisions of subsection 35-17.7; and (b) Contribute to the City of Bayonne Municipal Parking Authority Improvement Fund, an amount in accordance with the "Parking Deficiency Schedule."
Parking Deficiency Schedule Deficiency Cost/Space 0 to 10 0 11 to 20 \$500/space 21 to 40 \$1,000/space over 20 41 and above \$2,000/space over 40 (c) Example: A 42 space deficiency requires \$0 for space 0-10, plus \$5,000 for space 11-20; plus \$20,000 for space 21-40; plus \$4,000 for space 41 and 42-Total Equals \$29,000.

§ 35-5.16 IL-A and IL-B Light Industrial Districts. [Ord. No. O-01-19 § 16 [33-5.10]]

a. Permitted Principal Uses.

1. Business, executive, or administrative offices.

2. Fully enclosed light manufacturing establishments, including the manufacture, assembly, packing or treatment of articles on merchandise from previously prepared materials, including: (a) Pharmaceutical and cosmetics. (b) Food processing. (c) Electrical and electronic equipment. (d) Woodworking, furniture, upholstery. (e) Textiles and apparel. (f) Awnings and Venetian blinds. (g) Machine shops/tool and die/metal working.

3. Wholesale storage, distribution and trucking services in the IL-B District only.

4. Bus terminals.

5. Research laboratories, including pilot facilities.

6. Fully enclosed heavy commercial establishments: (a) Electrical and plumbing sales and contracting. (b) Building material sales and lumber yards. (c) Dry cleaning plants. (d) Lithography, printing, ruling and binding establishments. (e) Photo processing plant. (f) Office supplies and services.

7. In the IL-A District only, other Commercial Establishments: (a) Automobile service stations. (b) Car wash facilities. (c) New automobile and motorcycle sales.

8. Cannabis suppliers or cannabis retailers licensed by the State of New Jersey and the City of Bayonne. [Added 3-17-2021 by Ord. No. O-21-13]

b. Required Accessory Uses. Reserved.

c. Permitted Accessory Uses.

1. Accessory structures and uses, such as restaurants, cafeterias, offices, provided that they are on the lot of the principal use and are customarily incidental to a permitted principal use or structure.

2. Storage of building and lumber materials, provided they are properly screened from adjacent uses.

d. Permitted Conditional Uses. None.

e. Area, Yard and Structure Requirements.

1. Minimum area: IL-A 7,500 square feet IL-B 20,000 square feet

2. Minimum lot fronting: IL-A 75 feet IL-B 100 feet

3. Minimum frontage setback: Both Districts 30 feet

4. Minimum rear yard setback: Both Districts 20 feet

5. Minimum Side Yard: IL-A District 10 feet, except that the combination of both side yards must be at least 25 feet IL-B District 20 feet, except that the combination of both side yards must be at least 50 feet

**6. Maximum Height (Both Districts): Principal Structure 50 feet and not exceeding 4 stories
Accessory Structure 30 feet and not exceeding 2 stories**

7. Floor Area Ratio: None.

8. Maximum lot coverage of principal and accessory structures (both districts): 80%.
[Added 11-10-2020 by Ord. No. O-20-58]

f. Special Requirements.

1. All uses are subject to performance standards of subsection 35-5.27.

§ 35-5.17 I-H Heavy Industrial District. [Ord. No. O-95-111 § 35-5.11; Ord. No. O-01-19 § 19 [33-5.11]; Ord. No. O-09-01 § 2]

a. Permitted Principal Uses.

1. All permitted principal uses in the IL-A and IL-B Districts, but not automobile service stations, car wash facilities and new automobile and motorcycle sales listed as "Other Commercial Uses."

2. General industrial uses involving primary production from raw materials such as metals, botanic and other man-made or natural products.

3. Chemical and petrochemical refining and manufacture.

4. Tank farms and bulk storage of materials other than flammable and combustible liquids. Flammable and combustible liquids are permitted as conditional uses in accordance with the conditional use standards of Schedule II in subsection 35-5.28, Conditional Uses.

b. Required Accessory Uses. Reserved.

c. Permitted Accessory Uses.

1. Permitted accessory uses in the IL-A and IL-B Districts.

d. Permitted Conditional Uses. Subject to conditional use standards of Schedule II in subsection 35-5.28, Conditional Uses:

1. Tank farms and bulk storage of flammable or combustible liquids.

2. Automobile storage facilities for impounded or towed vehicles, subject to the following

conditions: (a) Facility operator must possess a valid towing license issued by the State of New Jersey. (b) Facility operator must be licensed by the City of Bayonne under Section 4-29 et seq. of these Revised General Ordinances of the City of Bayonne. (c) Vehicles shall be stored in the rear yard or side yard only. (d) The area within which the vehicles are stored shall be fully enclosed with a fence or a wall a minimum of six feet in height. (e) The area within which vehicles are to be stored shall be screened or otherwise protected from view from public streets, rights of way and adjacent properties by way of a fence, wall, landscaping, berm or any combination thereof. (f) Accessory structures or buildings associated with the aforesaid use shall be located in the rear yard or side yard only. (g) Where the use adjoins a designated redevelopment area, commercial zone or residential zone; a buffer shall be provided having a minimum width as follows: (1) Minimum buffer to residential district or use: 50 feet. (2) Minimum buffer to redevelopment area or use: 250 feet. (3) Minimum buffer to commercial district or use: 150 feet. (h) Automobile storage facilities for impounded or towed vehicles shall be located in those sections of the I-H Heavy Industrial District east of Route 440 and north of East 5th Street only. In no event shall such a facility or use be located on property that fronts Route 440. (i) Automobile storage facilities for impounded or towed vehicles shall not be construed to include new or used vehicle sales lots, commercial parking lots, junkyards or outdoor storage facilities for the distribution and trans-shipment of vehicles for retail or wholesale trade.

e. Area, Yard and Structure Requirements.

1. Minimum area: one acre.

2. Minimum lot fronting: 125 feet.

3. Minimum frontage setback: 30 feet.

4. Minimum rear yard setback: 50 feet. (Where property abuts the waterfront, rear yard is reduced to not less than 25 feet.)

5. Minimum Side Yard 25 feet, except that the combination of both side yards must be at least 50 feet.

6. Maximum Height. Principal Structure None Accessory Structure None

7. Floor Area Ratio none.

8. Maximum lot coverage of principal and accessory structures: 80%. [Added 11-10-2020 by Ord. No. O-20-58]

f. Special Requirements.

1. All uses are subject to performance standards of subsection 35-5.27.

2. As certain land uses become obsolete in this zone and as the new Master Plan implements new zoning based on market driven needs; the following block and lots will form an "overlay zone district" which allows all "I-H" permitted principal, accessory and conditional uses by right. Concurrently, as an alternate, the overlay zoning also permits principal, accessory, and conditional uses of the Highway Commercial/Selected Light Industrial District in the shaded area on the City Zoning Map between the H-C District and the I-H District. Block and lots in the "I" Overlay Zone District Block 412 - Lot 3 (6.43 ac.) Block 415 - Lot 1 (2.59 ac.) Block 415 - Lot 2 (7.53 ac.) Block 416 - Lot 3 (17.56 ac.) Block 417 - Lot 1 (6.22 ac.) Block 417 - Lot 2 (2.07 ac.) Block 417 - Lot 3 (8.99 ac.)

3. An applicant may opt to utilize the overlay zoning once an application for site plan approval is made to the Planning Board. The applicant must set a termination date for the Heavy Industrial Use which cannot coexist with the proposed Highway Commercial/Light Industrial Use.

4. Design Criteria - Reserved.

§ 35-5.18 Bayonne Metropolitan Harbor District (BMHD). [Ord. No. O-01-19 § 18]
ONGOING REDEVELOPMENT AREA (Note on zoning map)

§ 35-5.19 I-H-O Specialized Heavy Industrial District Overlay. [Ord. No. O-07-03 § 1]

a. The I-H-O Specialized Heavy Industrial District Overlay shall comprise portions of Block 503, Lots 9 and 9.01; Block 453.01, Lots 2, 3, 4, 5, 6, 7 and 9; Block 466, Lots 2, 3 and 5; and Avenue J between New Hook Road and East 22nd Street.

b. Permitted Principal Uses.

- 1. All permitted principal uses in the IL-A and IL-B Light Industrial Districts.**
- 2. All permitted principal uses in the I-H Heavy Industrial District.**
- 3. General manufacturing activity involving the mechanical or chemical transportation of bulk commodities, materials and substances into new finished or semi-finished products.**
- 4. Chemical manufacturing, processing and refining.**
- 5. Assembly and packaging of components into new finished or semifinished products.**
- 6. Warehousing and distribution.**
- 7. Research and development including offices, laboratories, pilot plants and associated facilities.**
- 8. Administrative, business and executive offices.**

c. Required Accessory Uses.

- 1. Off-street parking and loading.**
- 2. (Reserved)**

d. Permitted Accessory Uses.

1. Accessory buildings and structures associated with a principal permitted use.

2. Off-street parking decks.

3. Outdoor storage of equipment and vehicles provided said area is accessory in nature and fully screened from public streets/rights-of-way by a fence and landscaping at least six feet in height. All other outdoor storage shall be screened from public streets and rights-of-way.

4. Railroad sidings with related accessory structures.

5. Detention basins and structures.

6. Signs subject to Section 35-25 of the City Zoning Ordinance.

7. Security fences and related structures such as guard houses except that fences fronting on public streets and rights-of-way shall not incorporate razor wire or similar materials.

8. Bulk storage of chemicals used or produced in conjunction with a permitted principal use.

9. All other uses that are, in the opinion of the approving authority, customarily incidental and subordinate to a permitted principal use.

e. Bulk Requirements (Area, Yard and Structure).

1. Minimum Tract Area: 10 acres except as hereinafter provided.

2. Minimum Lot Frontage: 200 feet.

3. Minimum Front Yard Setback: 15 feet except structures used for chemical processing or refining shall have a thirty-foot setback to public streets/rights-of-way.

4. Minimum Rear Yard Setback: 25 feet.

5. Minimum Side Yard Setback: 15 feet.

6. Maximum Building Height: five stories, 65 feet for principal buildings and 10 stories, 150 feet for accessory buildings/structures.

7. Maximum Floor Area Ratio: N/A.

8. Maximum Lot Coverage: 80%. [Amended 11-10-2020 by Ord. No. O-20-58]

f. Special Requirements.

1. The provisions of this subsection are limited to the following properties that shall constitute the I-H-O District: (a) Tax Map Block 453.01 (Tax Book 453), Lots 3, 4 and those portions of Lots 1, 2, 5, 6 and 9 that are located outside the Route 440 Corridor East Redevelopment Area. (b) Those portions of Tax Map Block 503, Lot 9 that are located outside the Route 440 Corridor East Redevelopment Area. (c) Tax Map Block 466, Lots 2, 3 and 4. (d) Those portions of Avenue J south of New Hook Road from the right-of-way line of New Hook Road to the centerline of East 22nd Street.

2. The provisions of the I-H-O District shall require a minimum tract area of 10 acres except as hereinafter provided and the submission of an overall site development master plan. Said plan may be conceptual in nature and shall be updated on a periodic basis as part of an application(s) for major site plan approval. Typical information to be provided includes planned structures, site improvements, bulk characteristics, phasing and uses. Until such time as the portions of Avenue J between New Hook Road and East 22nd Street have been vacated and closed, the minimum tract area for any properties within the I-H-O District east/southeast of Avenue J shall be two acres.

3. All uses are subject to the performance standards of subsection 35-5.27.

4. Minimum Buffer Requirement: (a) Public Streets/Rights-of-Way: 10 feet. (b)

Nonindustrial Development: 50 feet to any nonindustrial (commercial) district/zone boundary and 100 feet to any nonindustrial (commercial building or facility). (c) Buffer Design: Buffers shall incorporate screening in the form of fences, walls and landscaping or any combination thereof with a minimum height of six feet. Buffers shall be kept clear and devoid of buildings or structures but may contain ancillary uses such as internal roads, off-street parking, sidewalks and internal signage.

5. Screening along public streets, public rights-of way and buffers may incorporate breaks or openings to provide visibility at the perimeter of a site(s) for security purposes. Said breaks or openings shall maintain perimeter control by the use of chain-link fencing or similar structure(s). The ratio of voids (breaks, openings) to solids (opaque screen) shall not exceed 1:2 (50%).

6. An alternative means of access to New Hook Road via public street/right-of-way shall be provided upon the vacation and closure of Avenue J between New Hook Road and East 22nd Street.

7. (Reserved)

g. Definitions.

1. Front Yard Setback: The linear distance between the principal facade of a building or structure and the nearest public street or right-of-way. Ancillary elements of a building such as entrance porticos, staircase/elevator risers, window bays, etc. may project into the front yard setback for a maximum distance of five feet.

2. (Reserved)

§ 35-5.20 H-1 Hospital District. [Added 3-18-2020] by Ord. No. O-20-20

a. The H-1 District shall comprise Block 164, Lot 5.01, Block 420.02, Lot 2.01, Block 159, Lots 14 and 15 Block 164, Lot 4.01.

b. Purpose: The purpose and intent of this zone is to permit, expand and continue the use of an inherently beneficial, hospital use serving the residents of the City of Bayonne and in order to continue to function as an engine of economic development.

c. Permitted Principal Uses. No building or premises shall be erected, altered or used except for uses designated in this district as follows:

1. Hospital and medical centers providing primary health care services for the diagnosis, care and treatment of human patients.

2. Medical and dental laboratories and research facilities.

3. Facilities for the education and training of hospital personnel, including but not limited to interns, hospital residents, nurses and technicians.

4. Research and development laboratories related to medical use.

5. Government and municipal use.

6. Parking garage related to and serving the medical hospital facility.

d. Required Accessory Uses.

1. Medical and dental offices.

2. Off-street parking and loading, parking structures and garages related to permitted hospital and/or medical center.

3. Off-street emergency vehicle ambulances or mobile hospital vehicles.

4. (Reserved)

e. Permitted Accessory Uses.

1. Uses customarily and/or associated with the operation and administration of the principal use.

2. Gift or flower shops, cafeteria, restaurant or snack bars and/or pharmacy, provided said use or uses are associated with a hospital or medical center and maintain no exterior entrances or exists to the outside of the building.

3. Signs.

4. Child-care facilities serving hospital personnel and patients.

5. Helipad provided approval from FCC and other federal/state aviation organization approval is granted.

f. Prohibited Uses.

1. Nursing homes.

2. Hospice.

3. Long-term chronic care facilities.

4. Long-term care facilities.

5. Staff residences.

6. Assisted living and memory care facilities.

g. Bulk Requirements (Area, Yard and Structure).

1. Minimum Lot Area: 80,000 square feet.

2. Minimum Lot Width: 150 feet.

3. Minimum Lot Depth: 500 feet.

4. Maximum Building Height: (a) Principal: Six stories/120 feet. (b) Accessory: Three stories/45 feet.

5. Minimum Setback: (a) Front: as existing; (b) Avenue E: 75 feet (new construction); (c) Broadway: 75 feet (new construction); (d) Side Yard: as existing; (e) East 29th Street: 10 feet for new construction; (f) East 30th Street: 10 feet for new construction; (g) Rear Yard: as existing: 10 feet for new construction.

6. Maximum Building Coverage: 80%.

7. Maximum FAR: 5.6.

h. Special Requirements.

1. Board at its discretion may request a traffic study for the proposed use, including anticipated car trips, drop-off and pick-up areas, emergency vehicle parking areas, pedestrian circulation, loading requirements and other such details.

2. A refuse and recycling operations plan should be submitted providing details on how the waste and biohazard waste disposal is handled, the responsible party for operations and management of the refuse and any contingency plan in case of emergency.

3. Overnight parking of emergency vehicles such as ambulances and hospital mobile units are permitted on site, provided a detailed delineated parking plan showing the location of these vehicles is provided including, proposed fencing and buffering around these parking areas to show visual buffering from the public street.

§ 35-5.20 through § 35-5.25. (Reserved)

§ 35-5.26 Area, Yard, Height and Density Requirements. [Ord. No. O-95-12, § 33-5.12; Ord. No. O-01-19 § 21]

a. Schedule of Regulations. Except as otherwise provided in this chapter, all proposed structures and use of land or structure shall comply with bulk and density regulations as required in Schedule I.[1] [1] Editor's Note: Schedule I can be found as an attachment to this chapter.

b. Averaging Front Yard.

1. On Streets with Existing Buildings. The street wall of every building hereafter erected or reconstructed or altered may be two feet plus the average of the setbacks of the buildings adjacent to the lot under consideration and extending to the street corners or a distance of 700 feet whichever is less; however, where two or more buildings are erected consecutively, the setback as set forth above plus two feet for each building to be erected shall govern for all buildings erected consecutively. This section shall in no event require a greater front yard setback than required by Schedule I of paragraph a above.

2. Streets 60% Vacant. Where the street of the lot under consideration is 60% vacant for a distance of 10 lots on each side or to the end of the street, the setback shall be that required for the zone and usage under consideration, however, the setback may exceed the minimum for that district.

c. Lots Fronting on a Cul-de-Sac. Frontage requirements for lots fronting on an are may be reduced by 17% of the required frontage for the zone district.

d. Location of Front Yard on Corner Lots. The location of a required front yard or corner lot along streets in a northerly/southerly direction shall be located on the street running in that direction.

e. Side Yard. Side yards for attached dwellings such as townhouses shall pertain only to the entire structure containing all units.

f. Through Lots. In any district, a through lot shall have a front yard along each street line.

g. Yards and Open Space. No part of a yard, parking area or other open space about any building or property shall be included as part of a yard, parking area or other open space required for another building or property.

h. Exceptions to Bulk and Density Regulations. The bulk and density requirements of Schedule I shall not apply to subdivisions along party walls of existing attached residential units or storefronts, provided that:

1. Subdivisions involve only a transfer of property with no expansions of nonconforming characteristics, units and/or nonresidential square footage.

2. Party walls meet sufficient fire ratings or their equivalents.

3. All utility connections are separated to serve each created lot individually.

i. Projections into Required Yards. Projections into required yard spaces shall be permitted in accordance with the following regulations:

1. Cornices, eaves, canopies, awnings, fireplaces and chimneys may project into any required yard for a distance not exceeding six feet, provided they are not closer than two feet to any property line.

2. Open decks and porches, stairwells, and balconies may project into the required yard space for a distance not to exceed eight feet, provided they are not closer than three feet from any property line nor closer than 10 feet to an adjacent structure.

3. Fire escapes may be located in any side or rear yard in residential zones or in any yard in nonresidential zones provided they do not project further than five feet into a required yard.

j. Height Exceptions. No building or structure shall have a greater number of stories or greater building height than permitted in Schedule I, except that such restrictions shall not apply as follows:

1. Ground floor parking garages accommodating not more than two cars in a detached single- or double-family dwelling, or townhouse, which do not contain or abut livable space, shall not be counted as a story [Amended 7-14-2021 by Ord. No. O-21-32]

2. Height or story restrictions shall not apply to church spires, belfries, cupolas, domes and monuments.

3. Water towers, chimneys, smokestacks, transmitting towers, masts and aerials other than satellite dish antennas shall not be subject to the height restrictions, provided these structures do not exceed a height equal to 1 1/2 times the building to which they are attached. Nonetheless, where the height of a smokestack is mandated by State or Federal law or agency regulations, such requirements shall supersede the requirements of this chapter.

4. Flagpoles shall not exceed a height of 1 1/2 times the principal structure on site when freestanding, nor a height 1/2 the height of the principal building when roof mounted.

5. Parapet walls shall not be counted toward building height, provided they do not exceed four feet in height.

k. Usable Open Space. All multiple family dwellings shall comply with the following requirements for minimum usable open space as defined in this chapter for the purposes of providing light, air, and recreational space for occupants and other persons coming into the property. Parking lots or areas shall not be credited toward "usable open space." Type of Dwelling Minimum Open Space per Unit Efficiency Apartment 150 square feet 1 Bedroom Apartment 200 square feet 2 Bedroom Apartment 250 square feet 3 Bedroom Apartment 300 square feet 4 Bedroom Apartment 350 square feet

§ 35-5.27 Performance Standards. [Ord. No. O-95-12, § 33-5.13]

a. Intent. Permitted and conditional uses in any nonresidential industrial district, or any industrial operation granted a variance shall comply with the standards contained herein intended to protect the health and safety of the residents of the City.

b. Procedures. Any application for site plan approval and/or a building permit for a use subject to performance standards shall be subject to the following procedures:

1. Prior to construction or operation, any application shall be accompanied by a sworn affidavit filed by the owner or operator of the proposed use that the use will be operated in accordance with performance standards set forth.

2. Continued compliance with performance standards is required and shall be enforced by the Construction Official or Environmental Officer.

3. All violations shall be terminated within 10 days or shall be deemed a separate violation for each day following and be subject to separate fines in accordance with these violations.

c. Noise. In all nonresidential districts, the sound pressure resulting from any activity shall not exceed, at any point on or beyond any property line, the maximum permitted sound levels depicted in Table I. The sound levels shall be measured with a sound level meter and associated octave band herein manufactured in compliance with standards prescribed by the United States of America Standards Institute. Table I Octave Band (Frequency Cycles per Second) Maximum Sound Permitted (Decibels)* 0 to 75 69 75 to 150 54 150 to 300 47 300 to 600 41 600 to 1,200 37 1,200 to 2,400 34 2,400 to 4,800 31 Above 4,800 28 * Shall be adjusted based upon certain characteristics of noise as listed in Table II. Table II Adjustments Type of Operation or Noise Correction in Decibels Daytime operation only (7:00 a.m. - 9:59 p.m.) +5 Noise source operates less than 5% of time (daytime only) +10 Noise of impulsive character (hammering, etc.) -5 Noise of periodic character (hum, screech) -5

d. Vibration. No use shall be operated so as to produce ground vibration, noticeable without instruments, at the lot line of the premises on which the use is located.

e. Smoke. No emission of smoke of a shade greater than No. 1 of the Ringelmann Smoke Chart shall be emitted into the open air from any fuel-burning equipment. However, smoke emitted during the clearing of a firebox or the building of a new fire, the shade not greater than No. 2 of the Ringelmann Smoke Chart may be permitted for a period not exceeding three minutes in any 15 consecutive minutes.

f. Dust or Solid Particles. In any district no discharge of solid particles through a stack, dust or vent shall be permitted that is greater than the allowable emissions in pounds per hour established by the New Jersey Air Pollution Code.

g. Odors. No emission of odorous gases or other odorous matter as to be detectable without instruments at any zone boundary shall be permitted.

h. Glare. No direct or sky-reflected glare shall be permitted beyond the property lines of such use with the exception of site lighting or entrances or service driveways.

i. Wastes.

1. Liquid Wastes. Provisions for collection and disposal of liquid wastes shall be in accordance with the standards approved by the State of New Jersey, Department of Environmental Protection and Energy (DEPE), and other applicable ordinances or regulations.

2. Solid Wastes. All solid wastes shall be handled in accordance with the standards approved by the State of New Jersey, Department of Environmental Protection and Energy (DEPE), and other applicable ordinances and regulations. There shall be no accumulation of solid wastes conducive to the breeding of rodents, vermin, and/or insects.

**§ 35-5.28 Conditional Uses. [Ord. No. O-95-12 Schedule II; Ord. No. O-01-19 § 22] SCHEDULE
II CONDITIONAL USE STANDARDS**

1. Religious Institutions, Hospital Facilities, and Other Quasi-Public Uses. Where conditionally permitted pursuant to Section 35-5 of this chapter, this use shall be permitted in accordance with the following standards:

a. The lot is at least 20,000 square feet in area.

b. No building or structure for such uses shall be closer than 30 feet from any property line.

c. A thirty-foot landscaped buffer strip shall be established along each adjacent property line, consisting of plantings at least five feet. Notwithstanding, such buffer area may contain a driveway accessing an off-street parking area, provided that the parking area itself is not within the buffer area.

2. Nursery Schools and Child Care Centers. Where conditionally permitted, and not deemed to be a home occupation as defined in this chapter, nursery schools and child care centers shall be permitted in accordance with the following standards:

a. At least 50 square feet of outdoor open play area shall be provided for each child, based upon the maximum capacity of the facility. Such play areas shall be enclosed by solid wall or fence at least six feet in height.

b. Play activity in outdoor play areas adjacent residential uses or zones shall be restricted to the hours of 9:00 a.m. and 5:00 p.m.

c. No portion of the facility shall be below grade level more than 1/2 story or six feet, whichever the lesser.

3. Public Utility Facilities. Where conditionally permitted, public utility facilities shall be permitted in accordance with the following standards:

a. The design of such facilities shall be consistent with the character of the neighborhood. Such design characteristics shall include, but not be limited to, materials used in construction, decorative landscaping and screening.

b. All equipment shall be located within enclosed structures, designed so as to minimize noise impacts on adjacent properties.

c. Such facilities located in residential districts shall only be in conjunction with essential services to serve that immediate district.

d. Such facilities shall be located as to draw a minimum amount of additional vehicular traffic.

4. Accessory Parking on Lots Abutting Commercial Districts. Where conditionally permitted, accessory parking areas to commercial uses shall be permitted in accordance with the following standards:

a. The lot shall directly abut along the full length of a property to a permitted commercial use within a commercial district. No such conditional use shall extend more than 75 feet into an R district at any point.

b. The lot shall be of sufficient size to accommodate a parking area designed in full conformance with regulation of subsection 35-17.5.

c. A landscaped buffer area of at least eight feet in width, consisting of a solid wall or fencing or year-round landscaping at least six feet in height, or a combination thereof, shall be established along any residential property line.

d. Any parking along a residential property line shall be designed and marked for "head-on" parking only.

e. No accessory parking area developed under this section shall contain any expansion of the principal nonresidential use or structure.

5. Residential Uses in Mixed Commercial/Residential Structures. Where conditionally permitted residential uses within mixed commercial/residential structures shall be permitted in accordance with the following standards:

a. Residential uses shall only be located above the first floor of the building or structure.

b. Access to the residential portion of the building or structure shall be via a separate entrance and stairwell.

c. No window serving the residential units shall be obstructed by any sign or other structure in association with the commercial portion of the building.

d. Fire access to the residential uses shall be provided in accordance with applicable regulations.

6. (Reserved)

7. Drive-Through Facilities. Where conditionally permitted, drive-through facilities as an accessory use to a permitted principal use shall be permitted in accordance with the following standards:

a. The drive-through lane shall be of sufficient length to accommodate the stacking of 10 vehicles awaiting service.

b. No drive-through lane shall impede access to on-site parking areas or to the site in general.

c. No speaker or other communication device associated with a drive-through facility shall be located within 50 feet of a residential zone or lot used for residential purposes.

d. Any canopy structure associated with a drive-through facility shall be set back at least 25 feet from any property line.

8. Tank Farms and/or Bulk Storage of Flammable or Combustible Liquids. Where conditionally permitted, these uses shall be permitted in accordance with the following standards:

a. All tank facilities shall be designed in accordance with Chapter 19, Fire Prevention and Protection of the Revised General Ordinances of the City of Bayonne.

b. No tank containing flammable liquids shall be located within 375 feet of a residential use or a lot zoned for residential purposes, provided that where a buffer, or residential use setback in a WD zone, is required between an industrial zone and a zone where residential use may be permitted, the required buffer area or residential use setback shall be deemed not to be zoned for residential purposes.

c. No tank containing combustible liquids shall be located within 175 feet of a residential use or a lot zoned for residential purposes, provided that where a buffer, or residential use setback in a WD zone, is required between an industrial zone and a zone where residential use may be permitted, the required buffer area or residential use setback shall be deemed not to be zoned for residential purposes.

d. Dikes or walls required in conjunction with tank storage shall be set back at least 30 feet from the boundary line of any non-industrial district, provided that where the adjoining non-industrial district provides for a buffer of at least 30 feet in width, the required buffer in the adjacent zone shall satisfy this provision.

e. A fifteen-foot wide landscape buffer shall be established between such use and the boundary line of any non-industrial district, provided that where the adjoining non-industrial district requires a landscaped buffer of at least 15 feet in width the buffer in the adjacent zone shall satisfy this provision. Such buffer, if required, shall consist of one tree (2 1/2 inch caliper) for each ten-foot length of buffer and contiguous evergreen plantings at least four feet in height at the time of planting.

f. A plan for the development or expansion of such facilities shall be submitted to the New Jersey Department of Environmental Protection and the United States Environmental Protection Agency where required. Final approval for such a facility shall be conditioned upon the applicant obtaining all required State and Federal Agency approvals.

9. Funeral Homes. Where conditionally permitted, funeral homes shall be permitted in accordance with the following standards:

a. The lot shall be at least 20,000 square feet in area.

b. Principal building coverage shall not exceed 25% of the total lot area.

c. Along abutting property lines a buffer of at least five feet in width consisting of a solid wall or fence at least six feet high and year-round landscaping shall be provided.

d. Entrances and exits shall be at least 75 feet from any street intersection.

10. New Automobile and Motorcycle Sales; Automobile Accessory Stores; Automobile Service Stations; Auto Repair Facilities (Including Paint and Body Shops); Car Wash Facilities; Movie Theaters; Restaurants; and Hotels and Motels in the Highway Development (H-D) District: These uses shall be permitted provided the use is situated on property which fronts a State highway.

11. Indoor Recreation and Stores; Commercial Anchor Stores with a Minimum of 20,000 Square Feet and Conventional Retail and Service Commercial Uses Which are Typically Ancillary to a Commercial Anchor Store. These uses shall be permitted in a Highway Development District (H-D) in accordance with the following standards:

a. Any building or buildings within 500 feet of a heavy industrial zone shall be located and oriented so that the principal entrance of the building or buildings shall face toward a State highway.

b. Any building or buildings to be erected and any parking areas servicing such building or buildings shall be located so as to draw a minimum amount of additional traffic onto roads existing at the time of the effective date of this chapter, other than State highways.

c. The portion of the property to the rear of any building or buildings to be erected shall be used for delivery and shipping purpose only and shall be designed so as to discourage the entry thereon of retail customers and private motor vehicles.

12. Major Mixed Use Residential Development (MXRD)

a. Bulk Requirements. (1) Minimum Lot Area: One acre. (2) Minimum Lot Frontage: 120 feet. (3) Minimum Front Yard Setback: No requirements, except: (a) For any structure exceeding 40 feet in height-one foot for each five feet of structure height. (b) In no case shall any structure be less than 40 feet from the center line of any street. (4) Minimum Rear Yard Setback: 10 feet, except: (a) For any structure exceeding 50 feet in height-one foot for each five feet of structure height. (b) Abutting residential zone district or existing residential use not less than 25 feet. (5) Minimum Side Yard Setback: No requirement, except: (a) For any structure exceeding 40 feet in height-one foot for each five feet of structure height. (b) Abutting residential zone district or existing residential use-not less than 10 feet. (6) Maximum Structure Height: As required in zone district. (7) Minimum Gross Floor Area: 25,000 square feet. (8) Maximum Lot Coverage of Principal and Accessory Structures: 40% plus that percentage of the site which is, in the opinion of the Municipal Agency, arranged, furnished intended to be used and is usable by the general public including plazas, mini-parks, widened sidewalks and similar facilities. (9) Minimum Unoccupied Open Space: 20%. (10) Maximum Overall FAR: 1.50 (11) Maximum Residential Density: 50 units/gross acre.

b. Distribution of Types of Uses. Each MXRD shall provide a minimum of three primary functions in the following use minimums for a site plan application. 60% minimum-residential use (primary). 10% minimum-professional office use (secondary). 5% minimum-retail and personal service (tertiary).

c. Parking Requirements. (1) A MXRD shall provide off-street parking subject to the provisions of Section 35-17, except that the off-street parking requirement for a MXRD complex shall be 2.0 parking spaces per 1,000 square feet of G.F.A. devoted to nonresidential uses plus 1.8 parking spaces per residential unit. Sufficient parking spaces to accommodate the nonresidential use component, determined according to the standards of Section 35-17. (2) Other alternatives to meet the parking requirements are: (a) Providing the required spaces on other properties owned by or under the control of the developer, within the designated zone (or adjacent zones which permit the proposed use(s)) and within a 500-foot walking distance of a primary pedestrian entrance to the site under development. The physical arrangement of such spaces and all access, ingress, setbacks and similar design details shall conform to this chapter. (b) Providing evidence that the required spaces have been leased or rented from others. In such cases, the spaces to be leased or rented shall be properly established under the terms of this chapter and the minimum term of such lease or rental shall be consistent with the probable duration of the proposed occupancy but not less than 10 years. (c) Providing evidence that a specific agreement exists with the City of Bayonne Parking Authority Municipal Parking Utility which provides for the developer to lease sufficient existing or proposed municipal parking; and/or provides for the developer to construct or contribute to the Parking Utility an amount sufficient to provide for the development's share of proposed municipal parking facilities; and/or provides for other terms acceptable to the Municipal Parking Authority. (d) A combination of alternates 1 and 2 - (a), (b), and (c) above, acceptable to the Municipal Agency. (3) If off-street parking requirements are not met as provided above the developer must: (a) Obtain approval of a parking space variance subject to the provisions of Section; and (b) Unless specifically waived by the Municipal Agency, because of demonstrated hardship or other good and sufficient reason, contribute to the City of Bayonne Municipal Parking Utility Capital Improvement Fund, the amount of \$2,000 for each required space not provided. (4) Off-street loading subject to the provisions of Section 35-17.

d. Signage. (Reserved)

13. Major Mixed Use Commercial Development (MXCD)

a. Bulk Requirements. (1) Minimum Lot Area: 1.75 acres. (2) Minimum Lot Frontage: 200 feet. (3) Minimum Front Yard Setback: No requirements, except: (a) For any structure exceeding 40 feet in height-one foot for each five feet of structure height. (b) In one case shall any structure be less than 40 feet from the center line of any street. (4) Minimum Rear Yard Setback: 10 feet, except: (a) For any structure exceeding 50 feet in height-one foot for each five feet of structure height. (b) Abutting residential zone district or existing residential use not less than 25 feet. (5) Minimum Side Yard Setback: No requirement, except: (a) For any structure exceeding 40 feet in height-one foot each five feet of structure height. (b) Abutting residential zone district or existing residential use-not less than 10 feet. (6) Maximum Building Height: 80 feet. (7) Minimum Gross Floor Area: 100,000 square feet. (8) Maximum Lot Coverage of Principal and Accessory Structures: 60% plus that percentage of the site which is, in the opinion of the Municipal Agency, arranged, finished, intended to be used and is usable by the general public, including plazas, mini-parks, widened sidewalks and similar facilities. (9) Minimum Unoccupied Open Space: 15%. (10) Maximum Overall FAR: 2.00

b. Distribution of Types of Uses. Each MXCD shall provide a minimum of three primary functions with the following floor area use limitations: 25% Maximum-Residential Use Component. 25% Minimum-Professional/Business Office Use Component. 5% Minimum-Primary Food Service Establishment Component.

c. Parking Requirements. (1) A MXCD shall provide parking subject to the provisions of Section 35-17, including the shared parking provisions, except: (a) The parking requirement for a MXCD shall be not less than 3.4 parking spaces per 1,000 square feet G.F.A.; and (b) Parking spaces for residential uses may not be reserved unless they are provided in addition to the minimum parking space requirement determined from subsection 35-17.6. (2) Other alternatives to meet the parking requirements are: (a) Providing the required spaces on other properties owned by or under the control of the developer, within the zone (or adjacent zones which permit the proposed use(s)) and within a 500-foot walking distance of a primary pedestrian entrance to the site under development. The physical arrangements of such spaces and all related access, buffers, setbacks and similar design details shall conform to this chapter. (b) Providing evidence that the required spaces have been leased or rented from others. In such case, the spaces to be leased or rented shall be properly established under the terms of this chapter and the minimum term of such lease or rental shall be consistent with the probable duration of the proposed occupancy but not less than 20 years. (c) Providing evidence that a specific agreement exists within the City of Bayonne Municipal Parking Authority which provides for the developer to lease sufficient existing or proposed municipal parking; and/or provides for the developer to construct or contribute to the Parking Utility an amount of sufficient to provide for the development's share of proposed municipal parking facilities; and/or provides for other terms acceptable to the Municipal Parking Authority. (d) A combination of alternatives 1 and 2 (a), (b), and (c), above acceptable to the Municipal Agency. (3) If off-street parking requirements are not met as provided above the developer must: (a) Obtain approval of a design deficiency waiver subject to the provisions of subsection 35-17.7; or (b) Obtain approval of a parking space variance subject to the provisions of subsection 35-5.10 paragraph f2; and (c) Unless specifically waived by the Municipal Agency, because of demonstrated hardship or other good and sufficient reason, contribute to the City of Bayonne Municipal Parking Authority Capital Improvement Fund, the amount of \$3,250 for each required space not provided. (4) Off-street loading subject to the provisions of subsection 35-17.8. (5) Signs subject to the provisions of Section 35-25 as follows: (a) (Reserved)

d. Maximum FAR: 2.50

e. Design Criteria. A MXCD shall be subject to the applicable provisions of this chapter and the following general design criteria: (1) The proposed development shall have an outward orientation which is physically and visually integrated with existing adjacent development and/or fosters adjacent community improvement and rejuvenation; (2) The proposed development shall be compatible with existing and proposed development in the vicinity; the mix of uses, and the arrangement and design of buildings and other improvements shall reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability; (3) If the development is staged, each building phase shall be designed as a self-sufficient entity, while allowing for effective integration of subsequent phases; (4) The pedestrian system shall be convenient and comprehensively designed to encourage pedestrian activity within the development; and (5) On the Detailed Site Plan, in the areas of the development which are to be used for pedestrian activities or as gathering places for people, adequate attention should be paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping, street furniture, and lighting (natural and artificial). (6) (Reserved)

14. Commercial Parking Facilities. Commercial parking facilities include self-park and attendant parking, surface and structure or garage facilities.

a. Where conditionally permitted, commercial parking facilities shall provide parking for a minimum of 25 vehicles.

b. Self-park commercial parking facilities shall provide parking stalls and aisles of a size consistent with the design standards under Section 35-17.

c. Attendant parking commercial parking facilities may utilize parking stalls 8 1/2 feet in width by 17 feet in length and may provide for the stacking of automobiles provided that it is not necessary to move more than two automobiles to gain access to another automobile.

d. Commercial parking facilities shall be screened from adjacent residential uses or residential zones in accordance with the provisions of subsection 35-4.14.

e. Attendant parking commercial parking facilities shall provide an accessory building with sanitary facilities.

f. All commercial parking facilities shall provide a sign visible to the operator of an automobile entering the site which sign shall include the following: (1) Parking rates. (2) Hours of operation. (3) Owner's and operator's name, address and telephone number.

g. Parking garage facilities shall meet all the coverage, setback and height requirements for principal buildings in the particular zone.

h. There shall be no direct access to a single-story parking garage facility from the street. All vehicular access to the garage structure shall be from the side yard, rear yard, or lot interior.

i. All commercial parking facilities shall have artificial lighting that will provide a minimum lighting level of 0.5 horizontal foot candles throughout the parking areas and access drives. Shielding shall be required where necessary to prevent glare upon adjacent properties or streets.

j. Minimum Unoccupied Open Space: 20%.

k. Signs shall be permitted as specified for the zone in which the use is proposed.

15. Community Residential for the Developmentally Disabled and Shelters for Victims of Domestic Violence.

a. A statement setting forth the full particulars on the building and/or use as submitted.

b. No Community Residence for the Developmentally Disabled or Shelter of Victims of Domestic Violence shall be located upon a lot containing any other use, nor shall any structure or facility on the site be utilized to provide services for any person not residing on the site.

c. Each Community Residence for the Developmentally Disabled or Shelter for Victims of Domestic Violence shall submit proof of licensing by the Department of Human Services of the State of New Jersey.

d. No building utilized for a Community Residence for the Developmentally Disabled or Shelter for Victims of Domestic Violence shall be constructed or altered so as to be inharmonious with the residential character or adjacent structures and residential zones.

16. Motor Vehicle Repair Garages.

a. Motor vehicle repair garages shall have a lot area of not less than 18,000 square feet with a minimum frontage of 120 feet on one street. If the lot requirements for the zone are greater, they shall take precedent. In any case, the minimum structure setback from residential uses shall be 35 feet, including pavement areas.

b. No outdoor oil drainage pits or hydraulic lifts shall be permitted.

c. Any repair of motor vehicles shall be performed in a fully enclosed building.

d. All motor vehicles awaiting repair or under repair which are stored out-of-doors shall be screened from public by a solid fence and/or evergreen plantings as required by the Planning Board.

e. No motor vehicle awaiting repair or under repair may be stored out-of-doors within the required front yard area; within 20 feet of any side or rear lot line; or within 50 feet of any adjoining lot within a residential zone.

f. No motor vehicle repair garage shall be located within 500 feet of any public entrance to a church, school, library, hospital, fire station, park, playground, charitable institution, or place of public assemblage. The distance shall be measured in a straight line along the centerline of streets forming the shortest route from a point opposite the nearest boundary from said public entrance to a point opposite the nearest boundary of the repair garage lot.

g. The maximum lot coverage shall be 50% of the lot area.

h. The minimum unoccupied open space shall be 30% of the lot area.

i. Signage. (Reserved)

17. Private Helistop.

a. Minimum Area: 150 feet by 250 feet.

b. The facility shall be designed in accordance with FDA rules and regulations.

c. Storage of fuel will be prohibited.

18. Educational uses. Educational uses include public, parochial or private elementary or secondary schools duly licensed by the State of New Jersey, attendance at which is sufficient compliance with the compulsory education requirements of the State.

a. Convents, social halls and similar uses which are accessory to the educational use shall be permitted.

b. Nursery schools with an attendance of more than 25 children shall be considered educational uses and shall be subject to the provisions of this Section.

c. Educational uses shall be screened from adjacent residential zones or existing residences adjacent to the site in accordance with the provisions of subsection 35-4.14 and/or shall provide fencing along such property lines as may be deemed adequate by the Planning Board.

d. Minimum building setback shall be 25 feet.

e. Minimum unoccupied open space shall be 35%.

19. Car Wash.

a. Minimum lot size for any car wash shall be 2.5 acres.

b. The minimum building front setback shall be 75 feet. Located within the front setback area, shall be a landscape plant area occupying at least 30% of the total front yard.

c. No building, parking facility or access isle shall be permitted with 75 feet of a residential zoned property.

d. Landscape buffering and screening shall be provided as recommended by the Planning Board's (or Zoning Board's) professional consultants.

20. Commercial Earth Terminal.

a. Commercial earth terminals shall be in conjunction with another permitted or conditional use and shall not be the only use on a lot.

b. Minimum lot width shall be 120 feet.

c. Design Standards. All commercial earth terminals shall fully comply with the following:

(1) A commercial earth terminal shall not be located in a front yard or to the front of a street rear or side yard, shall not be closer to any property line than the height of the commercial earth terminal, and shall not be located in a buffer area; (2) A commercial earth terminal shall not violate the rear or side yard setback requirements applicable to the principal buildings within the particular district as set forth in the Development Regulations; (3) The commercial earth terminal support shall be erected on a secure foundation; (4) If erected on the ground, the height of a commercial earth terminal shall not exceed 20 feet; (5) If erected on a building or other structure, the height shall not exceed the height permitted in the zone by more than five feet nor shall the terminal be more than 10 feet above structure; (6) The main reflector of a commercial earth terminal shall not exceed a diameter of six meters; (7) All wiring or connecting cables between a ground mounted commercial earth terminal and the principal building on the property shall be buried underground; (8) Any accessory building of the commercial earth terminal used for housing equipment necessary for the operation of the commercial earth terminal shall not be greater than one story, shall not exceed a building height of 12 feet, and shall not exceed 150 square feet in area; (9) A commercial earth terminal shall be surrounded by a non-climbable fence or other suitable barrier of a minimum height of six feet designed to prevent access to the earth terminal and may be equipped with appropriate lighting and an alarm system which shall not be offensive to surrounding properties; (10) A ground mounted commercial earth terminal shall be so located and shall be effectively screened from view by natural plants, trees or other suitable sight barrier, which shall be maintained in good condition, in order to minimize the noise and visibility of the commercial earth terminal from any adjacent property and public street, as approved by the Planning Board; (11) Only one earth terminal shall be permitted on the applicant's property; (12) A commercial earth terminal shall be accessory to the principal building and incidental to the use of the principal building, and the occupants of the principal building shall be the principal users of the commercial earth terminal; (13) Transmission of electrical signals to or from a commercial earth terminal or to or from an off-site ground location shall only be through underground or aerial wire, cable or fiber optic facilities; and (14) The construction and operation of a commercial earth terminal shall fully comply with all applicable Federal and State statutes, regulations and requirements, including those pertaining to safety levels of radio frequency electromagnetic fields with respect to human exposure.

§ 35-6 through § 35-15. (RESERVED)

§ 35-16 NONCONFORMING STRUCTURES, LOTS AND USES.

§ 35-16.1 Intent. [Ord. No. O-95-12 § 33-6.1] Within the districts established by this chapter or amendments that may later be adopted there exist:

a. Lots;

b. Structures;

c. Uses of land and structures, which were lawful before this chapter was passed or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. After the effective date of this chapter, the nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the planned construction, or designated use of any building on which actual construction has been commenced and carried on diligently prior to the effective date of this chapter. Actual construction is hereby defined to include the placing of construction materials permanently and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently to conclusion. All of the above provisions shall not apply unless a valid site plan has been approved by the appropriate City agency and such approval is still in effect.

§ 35-16.2 Nonconforming Uses of Land. [Ord. No. O-95-12 § 33-6.2] Where at the time of the effective date of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:

a. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

b. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than occupied by such use at the effective date of adoption or amendment of this chapter.

c. If any nonconforming use of land is abandoned, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located. Evidence of abandonment shall include:

1. Cessation of the nonconforming use or any related activity for a period of 12 months, during which time there has been no apparent act or failure to act on the part of the tenant or owners to reinstate such use; or

2. Conversion of the nonconforming use to a conforming use.

d. No nonconforming use shall be substituted with another nonconforming use.

§ 35-16.3 Nonconforming Structure. [Ord. No. O-95-12 § 33-6.3] Where lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

a. No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

b. A nonconforming structure or nonconforming portion of any structure which is partially destroyed by any means may be restored or repaired, provided that appropriate permits and site plan approvals are obtained. Destruction of less than 50% of the floor area existing at the time of the damage shall be presumed to be "partial" destruction.

c. Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

§ 35-16.4 Nonconforming Uses of Structures or of Structures and Premises in Combination. [Ord. No. O-95-12 § 33-6.4] If a lawful use involving individual structures or of structures and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following additional provisions:

a. No existing structure devoted to such a nonconforming use shall be enlarged, extended, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.

b. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be reinstated.

c. A nonconforming structure housing a nonconforming use which is partially destroyed by any means may be restored or repaired, provided that appropriate permits and site plan approvals are obtained. Destruction of less than 50% of the floor area existing at the time of the damage shall be presumed to be "partial" destruction.

§ 35-16.5 Repairs and Maintenance. [Ord. No. O-95-12 § 33-6.5] Nothing in this chapter shall be deemed to prevent normal maintenance and repairs or to prevent the strengthening or restoring to a safe condition any building, structure or part thereof declared to be unsafe by any official charged with protecting the public safety. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

§ 35-16.6 Nonconforming Residential Lots. [Ord. No. O-95-12 § 33-6.6] In any district permitting residential uses, a single family structure, or a double family structure provided such use is permitted, may be erected on a nonconforming lot, provided that:

a. The total lot area is not less than 2,500 square feet.

b. The applicant has been unable, upon a good faith effort, to purchase at fair market value any adjacent available vacant lot or a portion of any adjacent land, whether vacant or not, which would render the applicant's lot conforming.

c. Required front, rear and side yards are provided.

d. Off-street parking is provided in accordance with this chapter.

§ 35-17 OFF-STREET PARKING AND LOADING.

§ 35-17.1 Scope. [Ord. No. O-95-12 § 33-7.1] The provisions of this section shall apply and govern in all zoning districts, with the exception of existing structures in the C-1, C-2, ORS, UBD and CBD districts.

§ 35-17.2 Location. [Ord. No. O-95-12, § 33-7.2] All parking spaces required herein shall be located on the same lot with the building or use served, however, parking spaces required for nonresidential uses may be located on a separate lot within 250 feet of the principal building, provided it is located within the same zone district.

§ 35-17.3 Joint Parking Facilities. [Ord. No. O-95-12 § 7.3] Any owner of property, which is permitted for nonresidential uses, may meet the required parking provisions of this section by participating in a joint parking program involving two or more business uses; provided that:

a. The area for the parking facilities shall be adequate to provide the sum total of off-street parking space requirements of such joint uses.

b. In any case, where the required parking spaces are not located on the same lot with the building(s) or use(s) served, or where such spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period the use or uses for which the parking is needed are in existence. Such agreement or covenant shall be duly recorded in the Office of the County Registrar of Deeds.

§ 35-17.4 Parking, Storage and Other Use Restrictions. [Ord. No. O-95-12 § 7.5; Ord. No. O-01-19 [33-17.4]]

a. A parking area shall not be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.

b. No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street, provided however, that such equipment may be parked anywhere on residential premises not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like.

c. In all residential districts, overnight parking of any commercial vehicle having a gross weight which exceeds 12,000 pounds is prohibited in any open or enclosed part of the property.

d. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used or zoned property other than in completely enclosed buildings.

e. No space within an existing residential structure used as garage space for vehicles shall be converted into additional living space, unless such parking area is replaced by a new parking area accommodating an equal number of vehicles located in a permissible area.

§ 35-17.5 Design Regulations. [Ord. No. O-95-12 § 33-7.5; Ord. No. O-01-19 § 20 [33-17.5]]

a. Size of Parking Stall and Driveway Curb Cuts. Minimum parking stall size for single, double and townhouse residential structures shall be 10 feet in width by 20 feet in depth, provided that where the configuration of a one- of two-family dwelling existing on the effective date of this ordinance precludes a parking stall of 20 feet in depth, a parking stall no less than 16.5 feet in depth may be permitted; provided further than that at no time shall any vehicle parked therein encroach upon a public right-of-way. Minimum parking stall size for all other uses shall be nine feet in width by 18 feet in depth. In residential and commercial zones, no driveway curb cut shall exceed 10 feet in width and there shall be no more than one driveway curb cut per lot. In all other zones, driveway curb cuts shall be in accordance with the engineer's standards for the proposed use.

b. Parking Bays. Parking areas or lots shall be designed in accordance with the following standards: Parking Arrangement Bay Width (feet) Single Double Parallel Parking 17* 26* 30° angle parking 33* 50* 45° angle parking 33* 50* 60° angle parking 36* 55* 90° angle parking 42 60 * One way circulation pattern only

c. Yard Requirements. All parking areas shall comply with the following yard requirements:

1. Accessory parking for single family, double family and townhouse dwellings may be located in any yard, provided that front yard parking be limited to no more than two spaces.

2. Accessory parking for multiple family dwellings and commercial uses may be located in any yard provided that no parking area be located closer than five feet from any street right-of-way and three feet from any other property line.

d. Screening. All parking areas shall be attractively landscaped, and screened from the street and adjoining residential properties. Screening shall be not less than four feet high or higher than six feet and constructed from materials which harmonize with the character of the neighborhood. Some evergreen plant materials shall be used to give year-round landscaping. A masonry screen may be substituted for the planting and shall be not less than four or more than five feet in height. This section shall not apply to single family, two-family and townhouse dwellings. In the case of structure parking, the facades of parking structures fronting on public rights-of-way shall be finished with a decorative open screen of masonry, metal or other appropriate material.

e. Lighting. Adequate lighting shall be provided for parking lots in operation between the hours from dusk until dawn and so designed as to eliminate glare to nearby residents and moving traffic.

f. Marking. Except for single, double and townhouse dwellings, all parking spaces within any parking area shall be clearly delineated by means of pavement markings to show the parking arrangement within the parking areas. The stalls shall be clearly marked and so designed, maintained and regulated that no maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

g. "Stacking" of Cars. In parking lots with attendant parking the "stacking" of cars will be limited to a depth of two cars so that no more than one car must be moved in order to get any car out of the lot. For stacking purposes a parking space shall be measured on the basis of not less than 200 square feet per car. Further, stacking of cars shall be permitted for purposes of calculating off-street parking spaces pursuant to subsection 35-17.6b only for single family, double family, and townhouse dwellings on individual lots. Such stacking shall be limited to space required between a ground floor garage and the street line and be no more than two cars in depth.

§ 35-17.6 Parking Space Requirements. [Ord. No. O-95-12 § 33-7.6]

a. Interpretation.

1. Similar Uses and Requirements. In the case of a use not specifically mentioned in paragraph b below, the requirements of off-street parking facilities for a similar use, which is mentioned, shall apply.

2. Storage of Trucks or Other Vehicles. The parking space requirements as prescribed in paragraph b below are in addition to space for storage of trucks or other vehicles used in connection with any use.

3. Employees. Parking spaces required on an employees basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

4. Fractions. When units of measurement result in the requirement of a fractional space, any fraction shall require one parking space.

b. Schedule of Parking Space Regulations. Off-street parking spaces shall be provided in accordance with the minimum requirements as hereinafter set forth. [Amended 3-18-2020 by Ord. No. O-20-20] Use or Use Category Minimum Spaces Per Measurement Unit Use or Use Category Minimum Spaces Per Measurement Unit

1. Residential Uses: Efficiency apartments 1 Dwelling unit Single, double, townhouse and multiple family dwellings: 1 bedroom 1 Dwelling unit 2 bedrooms 1 1/4 Dwelling unit 3 bedrooms 1 1/2 Dwelling unit Senior citizen housing 1/2 Dwelling unit Hotel and motel 1 Each guest room or suite Additional requirement 1 Each employee Parsonage, rectory, convent and nunnery 1 1,000 square feet or area

2. Institutional and Public Assembly Uses: Auditorium, gymnasiums and other places of assembly 1 4 seats or 75 square feet of floor space in seating area whichever is greater Church or temple 1 4 seats in the main auditorium or their equivalent Elementary and junior high school 1 Each classroom Additional requirement 1 15 seats in the main auditorium or 3 nonteaching employees, whichever is greater High School 2 Each classroom Additional requirement 10 seats in the main auditorium or 3 nonteaching employees, whichever is greater Hospital 1 (on-site) 3 beds Additional requirement 1 (on-site) 2 employees 10% of overall total number of spaces Libraries, art galleries and museums 1 400 square feet of floor area Long-term care facilities 3 (on-site) 1 bed Nursery School 1 Each employee, plus 1 space for each 500 square feet of floor area Social club, lodge or fraternal organization 1 150 square feet of floor area

3. Commercial Uses: Amusement place, dance hall, 2 200 square feet of floor space skating

rink, swimming pool Automobile and boat sales 1 500 square feet of floor area open to the public, plus 1 space for each 3,000 square feet of storage Automobile laundry 1 1 wash rack Additional requirement 1 2 employees Automobile repair area 1 200 square feet of floor Barber shop and beauty parlor (over 2,000 square feet) 2 Each chair Additional requirement 1 Each employee Bowling alley 5 Each alley Bus station 1 100 square feet of waiting room area Funeral home or mortuary area 1 75 square feet of floor area of viewing rooms Gasoline filling station 1 Each island of pumps and each service bay Additional requirement 1 2 employees Golf courses 7 Hole, exclusive of any other uses provided in conjunction with the golf course Laundromat or dry cleaning (over 2,000 square feet) 1 3 washing machines Office and office building area 1 400 square feet of floor area, excluding common hallways, utility and basements Restaurants and cocktail lounges 1 4 seats Restaurants (drive-in) 1 25 square feet of retail sales and seating floor area Retail store or personal service establishment (under 2,000 square feet) 0 Retail store or personal service establishment (unless listed separately) and banks (over 2,000 square feet) 1 300 square feet of floor area Theater (indoor) floor space in seating area, whichever is greater 1 4 seats or 75 square feet of

4. Industrial Uses: Manufacturing, laboratory, warehousing establishments and truck terminals 1

200 employees of 1,000 square feet, whichever is greater Additional requirement 1 Each vehicle used in the conduct of the enterprise

§ 35-17.7 Waiver. [Ord. No. O-95-12 § 33-7.7] The Planning Board or Zoning Board of

Adjustment may waive up to 50% of the required number of parking space for all nonresidential uses based upon evidence provided by applicant that owing to the nature of use operation, management, employment records or other independent survey shows the calculated number of parking spaces is not required to meet the needs of the applicant. In such case, an area shall be reserved that can readily be converted to off-street parking in accordance with this chapter.

§ 35-17.8 Off-Street Loading and Unloading. [Ord. No. O-95-12 § 33-7.8] Each lot on which a

building for nonresidential use is hereafter erected or substantially altered shall make provision for loading and unloading which will not interfere with traffic on the main street or streets on which the use is located.

a. Location. Off-street loading and unloading space shall be located on the same lot as the structure for which provided. Such space may be provided on aisle or driveway required for off-street parking, but only located in a side or rear yard and not closer than five feet from any property line.

b. Loading Berth. Loading berth shall have at least 10 feet in width and 25 feet in length, with a minimum of fourteen-foot height clearance and having direct access to a street.

c. Space Requirement. In the C and I Districts off-street loading berths shall be provided in accordance with the following: Uses Square Feet of Floor Area Required Off-Street Loading Berth Offices, hotels From 10,000 to 25,000 1 Retail, commercial From 25,000 to 40,000 2 Wholesale, manufacturing, storage and miscellaneous uses From 40,000 to 60,000 3 For each additional 50,000 or major fraction thereof 1 additional

§ 35-18 through § 35-24.

§ 35-25 SIGN REGULATIONS.

§ 35-25.1 Sign Permit. [Ord. No. O-95-12 § 33-8.1; Ord. No. O-12-31; amended 2-17-2021 by Ord. No. O-21-10; 6-16-2021 by Ord. No. O-21-29] All signs hereinafter erected, altered, enlarged, relocated, or repaired, including but not limited to any and all temporary signs, shall require a sign permit issued by the Zoning Officer. Applications shall include two copies of each of the following:

a. Drawings indicating plot plan, width and floor-to-floor height of façade, building elevation, indicating sections showing sign location, size, type, materials, method of attachment and indicating all other existing "wall signs," "projecting signs," "window signage" or other signs on the building, lighting and support details.

b. Proof of ownership or letter of authorization from the owner to erect a sign.

c. An electronic copy of the documents required in Subsection 35-25.1a and b, above.

Electronic submissions shall be required to be submitted to the Zoning Officer and may be in the following formats: PDF, Microsoft Word, JPG or any other electronic format acceptable by the Zoning Officer. The Zoning Officer is permitted to waive the requirement for the submission of any paper copies.

§ 35-25.2 In All Districts. [Ord. No. O-95-12 § 33-8.2; Ord. No. O-12-31]

a. Signs Permitted in All Districts. The following signs are permitted in all districts:

1. "Address signs" not exceeding eight inches by 12 inches in size.

2. Governmental and public utility signs.

3. Non-illuminated temporary signs on new construction sites containing traditional, non-garish colors, provided that the total combined area of said signs shall not exceed 5% of façade coverage; and provided that said signs are removed six months after installation or after receipt of a certificate of occupancy, whichever is earlier. Such temporary signs may include, but are not limited to, banners, flags, pennants and window placards located on private property and not in the public right-of-way. A maximum of two such signs shall be permitted per location. [Added 6-16-2021 by Ord. No. O-21-29]

b. Signs Limited to Certain Districts/Uses.

1. Informational signs containing fixed and/or variable message components having a ground, monument or wall sign design for public buildings/uses, schools and houses of worship.

2. Informational Sign Standards. Such signs shall have a maximum height of 10 feet, area of 100 square feet and variable message component limited to 60% of total sign area or less. The variable message component may not flash, strobe or create excessive glare to limit impacts upon residential properties and ensure safe traffic/vehicular circulation.

3. (Reserved)

c. Signs Prohibited in All Districts.

- 1. Signs which interfere with, disrupt, or are erected upon, or block a pedestrian or vehicular circulation pattern or site line which constitute a safety hazard to persons or vehicles.**
- 2. "Illuminated signs" which have interior or exterior flashing light sources, which have intermittent or variable intensity lighting, or which cause glare on pedestrian or vehicular circulation patterns within or into residential areas.**
- 3. Privately owned or operated signs which stimulate or resemble by color, size, shape, or location any governmental, public utility, official, traffic, directional or warning sign or device.**
- 4. Advertising signs on any building exclusively used for residential purposes.**
- 5. Signs which move either by wind, motion, mechanical or electrical means, except signs with time or temperature messages.**
- 6. Signs which divide or repeat a message or announcement along a public or railroad right-of-way.**
- 7. "Roof signs" or signs which are erected or projected above the cornice or parapet of a building.**
- 8. Signs on any building facade not fronting on a public right-of-way or driveway with direct access to a public right-of-way.**
- 9. Signs on bridges or other structures crossing over any public right-of-way.**

10. Signs applied to the facade of a building which cover any portion of a window, cornice or other architectural detail of a building.

§ 35-25.3 Signs Permitted in Residential Districts. [Ord. No. O-95-12, § 33-8.3; Ord. No. O-12-31; amended 8-19-2020 by Ord. No. O-20-45; 6-16-2021 by Ord. No. O-21-29] No signs shall be permitted in any residential district except signs permitted in all districts as identified in Subsection 35-25.2a and as follows:

a. Non-illuminated temporary sign advertising existing building(s) and/or premises on which the sign is located for sale or lease, not exceeding 12 square feet, provided temporary sign is removed within seven days after the premises has been sold or leased.

b. All signs permitted in Subsection 35-25.2a3.

c. Home professional signs, identifying a permitted use in residential districts, affixed to the structure, and not exceeding one square foot in area.

d. Institutional and church bulletin signs not exceeding 20 square feet in area and, if freestanding, not more than five feet in height.

e. Temporary announcement signs for political and religious organizations, erected not sooner than two months prior to an event and removed not later than two weeks following an event.

f. In R-3 and R-M districts only, identifying signs, either freestanding or building mounted, for multifamily developments, not exceeding 10 square feet in area, nor four feet in height when freestanding.

§ 35-25.4 Signs Permitted in Commercial Districts and Highway Commercial/Select Light Industrial District. [Ord. No. O-95-12 § 33-8.4; Ord. No. O-98-17 § 1; Ord. No. O-12-31] No signs shall be permitted in commercial districts, except:

a. Those signs permitted in residential districts.

b. Temporary signs announcing special events such as charitable events, grand openings, promotions and sales for a period of no greater than 30 days. Temporary signs may include but are not limited to banners, flags, pennants and window placards located on private property and not in the public right-of-way. A maximum of two such signs shall be permitted per location.

c. Business signs, not exceeding 20% of the sign facade area as defined by this chapter, of the following types:

1. Wall signs, not exceeding three square feet for each linear foot of sign frontage, as defined by this chapter.

2. Projecting signs, not projecting a distance greater than 12 inches.

3. Awning and canopy signs, regulated as wall signs, provided that the sign does not extend above or below the edges of the awning or canopy.

4. Box signs, affixed to walls and regulated as wall signs.

5. For permitted gasoline filling stations, or freestanding sign not exceeding 35 square feet in area, and not less than 10 feet nor more than 20 feet in height, displaying customary brand name and prices. Further, customary accessory signs identifying service may be erected over bay doors, not exceeding 12 inches in height nor six feet in area per bay.

6. Window signs, not exceeding 30% of the window area to which the sign is affixed.

d. Directional signs for entry and exits to parking areas, not to exceed four feet in area, nor five feet in height.

e. For permitted planned shopping centers exceeding 25,000 square feet in floor area, one free-standing identifying sign, not exceeding 80 square feet in area may be permitted, provided that:

1. The sign shall identify the shopping center only.

2. No part of the sign shall exceed 30 feet in height, nor be less than 10 feet in height.

3. No sign shall be closer than 50 feet from a street right-of-way.

f. Awnings extending no more than three feet from a structure and which extend over public right-of-way in accordance with the following:

1. All awnings extending over any public right-of-way must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from other cause. No awning shall be erected or maintained extending over any public right-of-way in such a location as to obstruct the view of any traffic light or other traffic sign or signal.

2. The lowest part of any awning or any support thereof which extends over any public way shall be at least seven feet six inches above the level of the walk or public way over which it extends; but no such sign shall be maintained over any public way used by vehicles if any part of its support or of the awning is less than 15 feet above the level of such public way.

3. Any canvas or other material, natural or synthetic, used as a component part of any awning permitted under this section shall be classified as flame resistant by Underwriters Laboratories, Inc.

§ 35-25.5 Signs Permitted in Industrial Districts. [Ord. No. O-95-12 § 33-8.5; Ord. No. O-12-31]

No signs shall be permitted in Industrial Districts except:

a. Those signs permitted in commercial districts.

b. Temporary signs announcing special events such as charitable events, grand openings, promotions and sales for a period of no greater than 30 days. Temporary signs may include but are not limited to banners, flags, pennants and window placards located on private property and not in the public right-of-way. A maximum of two such signs shall be permitted per location.

c. Freestanding business signs, where the building front setback is at least 75 feet. The sign shall be set back at least 20 feet from a street right-of-way and not exceed three square feet for each linear foot of street frontage or 200 square feet, whichever the lesser, provided that:

1. No sign shall have a length greater than 20 feet.

2. No part of the sign shall be higher than 10 feet.

§ 35-25.6 Maintenance and Appearance. [Ord. No. O-95-12 § 33-8.6; Ord. No. O-12-31] All signs shall be maintained in a clean and neat-appearing condition, and such maintenance, where applicable, shall include regular cleaning; regular painting and removal of any peeled, chipped or blistered paint; the renewal or replacement, in whole or in part, of any sign which has been caused to crack, break, peel or otherwise disintegrate or fall apart.

§ 35-25.7 General Provisions. [Ord. No. O-95-12 § 33-8.7; Ord. No. O-12-31]

a. Any sign, now or hereafter erected or maintained, which no longer advertises a bona fide business conducted or product sold, or notice of a current or future event, shall be taken down and removed by the permittee or by the owner of the premises, if there is no permittee, within 30 days after such business ceases, such product ceases to be sold or such event occurs. Upon failure to comply, the Zoning Officer is hereby authorized to cause the removal of such sign and any expense incident thereto shall be paid by the permittee or owner of the premises upon which sign is located. The Zoning Officer shall thereafter refuse to issue a permit for the erection of any sign, awning, canopy or marquee in the City of Bayonne to any permittee or property owner who refuses to pay the costs of such removal.

b. If the Zoning Officer shall determine that any sign, now or hereafter erected or maintained, is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in such a manner as to pose a hazard to persons or property, or has been constructed or erected or is being maintained in violation of the provisions of this chapter or any other law or ordinance, he shall give written notice to the permittee, and, if there is no permittee, to the owner of the premises, of such violation. If the permittee or owner fails to remove or alter the sign within 30 days after such notice, such sign may be removed or altered by the City at the expense of the permittee or owner of the premises upon which it is located. The Zoning Officer may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

c. All signs attached to the ground or to a building or other structure shall be thoroughly and rigidly secured and shall be repaired and maintained as necessary to keep them secure, safe and free from causing any danger or damage to persons or property.

d. No sign shall be erected or maintained so as to obstruct access to any fire escape, window, door, exit or standpipe, or obstruct passage by either vehicular or pedestrian traffic on any public or quasi-public right-of-way. Signs shall be constructed and erected in such a manner as to allow for the effects of high winds and other natural forces and the Zoning Officer may require copies of the stress sheets and calculations showing that the sign is adequately designed for dead-load and wind pressure in any direction, in any situation where such information may be helpful in determining whether such sign can be safely constructed, erected or maintained.

§ 35-25.8 Nonconforming Signs. [Ord. No. O-95-12 § 33-8.8; Ord. No. O-12-31] Signs not in conformance with this section shall be allowed to continue as of right, regulated as follows:

a. Repair of signs is permitted, provided that the cost of repair does not exceed 50% of the replacement costs of the sign.

b. The structural alteration of sign shall only be permitted if said alteration brings the sign into conformance with this section.

c. No permits shall be issued for new signs or owner-occupied or single-tenanted properties where nonconforming signs exist.

§ 35-26 WIRELESS TELECOMMUNICATIONS TOWERS, FACILITIES AND ANTENNAS.

§ 35-26.1 Purpose. [Ord. No. O-01-34 § 1; Ord. No. O-03-37 § 1] The purpose of this section is to provide opportunities for the community to be served by personal wireless service facilities and establish general guidelines for the siting of the wireless communications towers and antennas while at the same time providing for an orderly development of the City and protecting the health, safety and general welfare of the residents and property owners. The goals of this section are to:

a. Preserve the character of the City of Bayonne and to serve the general purposes of the City of Bayonne Master Plan and Zoning Ordinance; and

b. Preserve the existing visual and aesthetic character of the City and its neighborhoods, as well as to minimize noise impacts generated by personal wireless service facilities; and

c. Provide locations for locating personal wireless service facilities; and

d. Protect residential areas and land uses from potential adverse impacts of towers and antennas; and

e. Encourage the location of appropriate wireless facilities upon existing structures in identified nonresidential areas such as Commercial, Light Industrial and Highway Commercial Zones; and

f. Minimize the total number of towers throughout the community; and

g. Encourage the use of appropriate and new technology so as to minimize adverse environmental, noise and visual impacts; and

h. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; and

i. Encourage use of existing buildings, light and utility poles and/or towers, to the extent possible, where appropriate, as opposed to the construction of new towers in areas where the adverse impact on the community is minimal; and

j. Encourage users of towers and antennas to locate them, to the best extent possible, in areas where the adverse impact on the community is minimal; and

k. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques; and

l. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and

m. Require prompt removal of abandoned facilities; and

n. Preserve the aesthetic character of the City by encouraging creative and cooperative approaches to locating wireless communication facilities so that such facilities will be compatible with their surroundings; and

o. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City shall give due consideration to the Master Plan, Zoning Map, existing land uses and environmentally sensitive areas in approving sites of towers and antennas.

§ 35-26.2 Definitions. [Ord. No. O-01-34 § 2; Ord. No. O-03-37 § 2] As used in this section, the

following terms shall have the meanings set forth below: ADMINISTRATIVE APPROVAL Shall mean the process for locating antennas and radio equipment on or within defined zones or locations that shall not require conditional use approval in accordance with N.J.S.A. 40:55D-67 of the Municipal Land Use Law or "Site plan approval" N.J.S.A. 40:55D-46, or any variance in accordance with N.J.S.A. 40:55D-70(a) or (d) of the Municipal Land Use Laws.

ADMINISTRATIVE REVIEW Shall mean an applicant for a wireless facility entitled to a administrative approval shall meet with the City Planning Administrator and the City Engineer to discuss the proposed location of the wireless communication antennas, the proposed location and possible landscape screening of any accessory shelters housing the related electronic equipment, and any other construction that may be proposed or required regarding the installation of the proposed antennas. Pursuant to the instruction given to the applicant by the City Planning Administrator and the City Engineer at the time of meeting, the applicant thereafter shall submit plans and documentation for review, approval and signing by the City Planning Administrator, the City Engineer, and thereafter a construction permit shall be issued. No construction permit, however, shall be issued by the Construction Official until her or she is in receipt of such signed plans. ALTERNATIVE TOWER STRUCTURE Shall mean man-made

trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers and similar alternative design mounting or stealth structures that camouflage or conceal the presence of antennas or towers.

ANCILLARY FACILITIES Shall mean the buildings, cabinets, vaults, closures and equipment required for operation of telecommunications systems including but not limited to repeaters, equipment housing and ventilation and other mechanical equipment. ANTENNA Shall mean any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. Parabolic dish antennas used for satellite communications shall not be included within this definition.

BACKHAUL NETWORK Shall mean the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers or the public switched telephone network. CO-LOCATION Shall mean when two or more receiving and/or transmitting facilities are placed together in the same location or on the same antenna support structure. FAA Shall mean the Federal Aviation Administration. FCC Shall mean the Federal Communications Commission.

GUYED TOWER Shall mean a tower that is supported or braced through the use of cables (guy wires) that are permanently anchored.

HEIGHT Shall mean when referring to a tower or other structure, the distance measured from the lowest finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna. LATTICE TOWER Shall mean a type of tower that is self-supporting with multiple legs and cross bracing of structural steel. MONOPOLE

a. BUILDING MOUNT Mounted on the roof or the side of a building.

b. GROUND MOUNTED Antenna support (tower) mounted on the ground.

c. STRUCTURE MOUNTED Mounted on or in a structure other than a building.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS Shall mean any tower or antenna for which a building permit or development application approval has been properly issued prior to the effective date of this section including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

PREFERRED LOCATIONS Shall mean locations that are listed in subsection 35-26.8b that have been found to be the most desirable for the location of personal wireless service facilities because of the existing development in the area or on the site, the types of buildings already existing at the site, the existence of similar or compatible facilities at the particular site, the commercial or industrial nature of the area, the zoning designation of the area, and/or the technical suitability of the particular location. It is the burden of the applicant on any application to provide reasons why a certain preferential location is more suitable than a listed preferred location that precedes it. RADIO FREQUENCY

RADIATION (RFR) For the purposes of this section, shall mean the emissions from wireless telecommunications facilities or any electromagnetic energy within the frequency range from 9.003 MHZ to 30,000 MHZ. STEALTH DESIGN Shall mean a telecommunication facility that is designed or located in such a way that the facility is not readily recognizable as telecommunications equipment. (See Alternative Tower

Structure) TOWERS Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, lighting towers, alternative tower structures and the like. The term includes the structure and any support

thereto. TYPE 1 FACILITY Shall mean (a) a new monopole to which an antenna or antenna array is attached or (b) an existing monopole that is modified or rebuilt to a taller height.

The definition of Type 1 facility also includes the associated equipment enclosure. TYPE

2 FACILITY Shall mean (a) a building-mounted antenna or antenna array that does not meet the conditions of a Type 3 facility or (b) an antenna or antenna array added to an existing monopole where there is no modification required related to the height of the monopole. The definition of Type 2 facility also includes the associated equipment

enclosure. TYPE 3 FACILITY Shall mean a roof-mounted antenna or antenna array that meets the following conditions:

a. The vertical dimension of the antenna(s) together with the associated mounting equipment and cabinets does not exceed 20%, but not more than 10 feet, of the height on the building on which it is mounted; and

b. The facility is categorically excluded from routine monitoring by virtue of the power output of all antennas placed on the building pursuant to the standards set forth by the FCC as those standards may be modified from time to time.

c. The definition of Type 3 facility also includes the associated equipment enclosure. TYPE 4 FACILITY Shall mean an antenna or antenna array mounted on an existing street or light pole that does not otherwise meet the criteria of a Type 5 facility. **TYPE 5 FACILITY** Shall mean a single array and transmitter mounted on a structure such as an existing street or light pole within a developed street, with the associated equipment enclosure mounted on the pole or installed completely below grade and the total power output not to exceed 10W and is less than 16 (14 by 16) inches in length and width and eight inches in depth including all associated equipment, and may have an antenna with a length not to exceed 30 inches. **WIRELESS COMMUNICATIONS** Shall mean any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is exclusively for receive-only antennas, nor does it include noncellular telephone service.

§ 35-26.3 Applicability. [Ord. No. O-01-34 § 3; Ord. No. O-03-37 § 3]

a. New Towers and Antennas. All new towers or antennas in the City shall be subject to these regulations, except as otherwise provided herein.

b. Existing Towers and Antennas. This section will be applicable to all new facilities and to existing facilities whenever application for modification or expansion to the facility is made.

c. Amateur Radio Station Operators/Receive Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a Federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

d. Satellite Dish Antennas. This section shall not govern any satellite dish antennas presently regulated under this chapter.

§ 35-26.4 General Requirements. [Ord. No. O-01-34 § 4; Ord. No. O-03-37]

a. Principal Use. Antennas and towers and their appurtenant structures shall be considered a principal use; however, notwithstanding any other City Land Use regulation, a different existing structure or principal use on the same lot shall not preclude the installation of an antenna or tower on such lot as a second principal use.

b. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with zone development regulations, including, but not limited to, setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

c. State or Federal Requirements. All towers, antennas and other wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency.

d. Building Codes; Safety Standards. To ensure the structural integrity of towers and antennas, the owner of a tower or antenna shall ensure that it is maintained in compliance with standards contained in applicable State of New Jersey or the City's Building Codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, by an engineer licensed in the State of New Jersey, the City of Bayonne concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice to the owner of the tower, the owner shall have 60 days to bring such tower into compliance. Failure to comply within 60 days shall constitute grounds for the removal of the tower or antenna at the owner's expense. Enforcement of this provision shall be by way of complaint to a court of competent jurisdiction. The sixty-day period to come into compliance shall be reasonably extended if the tower owner is diligently pursuing remediation after given due notice by the City of Bayonne of an actual standard or code violation. It is the provider's and any co-applicant's responsibility to protect the facility from unauthorized access through appropriate means, consistent with the purpose of protecting the public health, safety and welfare. Such persons or entities shall maintain the facility in a good and safe condition and preserve its original appearance and concealment, disguise or camouflage elements incorporated into the design at the time of approval. Such maintenance shall include, but not be limited to, such items as painting, structural repair, repair of equipment and maintenance of landscaping.

e. Nonessential Services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities or private utilities.

f. Licenses. Owners and/or operators of towers or antennas shall certify that all Federal licenses required by law for the construction and/or operation of a wireless communication system in the City of Bayonne have been obtained and shall submit a copy with any application for construction of a facility including any application for an administratively approvable facility, a conditional use application before the Planning board or a use variance application to the Zoning Board as the case may be.

g. Public Notice. For purposes of this section public notice shall be given in accordance with subsection 33-4.8 of Chapter 33, Planning and Development Regulations.

h. Signs. No signs or advertisements of any kind, other than appropriate warning signs shall be allowed on an antenna or tower.

i. Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

j. (Reserved)

k. Multiple Antenna Co-Location. The City of Bayonne strongly encourages the co-location of antennas. As such the owners of all new towers are mandated to permit the co-location of the antennas of at least two additional service providers and are encouraged to permit the co-location of additional antennas. A letter of intent to meet the above co-location requirement, or such other binding legal document as approved by the Attorney of the Planning Board or Zoning Board of Adjustment, as the case may be, or the appropriate City Corporation Counsel shall be provided to the Planning Board, Zoning Board of Adjustment and/or appropriate City Agency by the applicant.

§ 35-26.5 Registration Required. [Ord. No. O-01-34 § 5; Ord. No. O-03-37 § 5]

a. Applicability. All telecommunications carriers and providers that offer or provide any telecommunication services for a fee directly to the public, within the City of Bayonne, shall provide to the City such information as set forth in paragraph b below.

b. Application Information Required. The following application information shall be required for all owners or operators of towers and/or antennas of the type covered by this section:

1. The identity and legal status of the registrant, including any affiliates;

2. The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the information statement;

3. An inventory of its existing towers, antennas, or sites approved for towers or antennas that are either within the jurisdiction of the City of Bayonne or within three miles of the border thereof including specific information about the location, height and design of each tower. The City of Bayonne may share such information with other applicant applying for administrative approvals or permits under this section or other organizations seeking to locate antennas within the jurisdiction of the city of Bayonne provided, however, that the City of Bayonne is not, by sharing such information, in any way representing or warranting that such sites are available.

4. A description of the telecommunications services that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the City;

5. Master Plan for all related facilities within the City limits of Bayonne. Which shall address at minimum: (a) How the proposed location relates to the suitability or unsuitability of such existing structures to be utilized to provide the intended wireless communication; (b) How the proposed location specifically relates to the anticipated need for additional antennas, supporting structures and other related facilities within the City limits of Bayonne by the applicant; (c) How the proposed location specifically relates to the overall objective of providing full wireless communication services within the City of Bayonne, while at the same time, limiting the number of facility sites to the fewest possible through the use of collocation; (d) How the proposed location specifically relates to the objective of minimizing the impact of antennas, accessory equipment and supporting structures; on residential areas, streetscapes and view corridors throughout the City of Bayonne.

c. Amendment. Each applicant shall inform the City within 60 days of any change of the information set forth in this subsection.

§ 35-26.6 (Reserved) [1] [1] Editor's Note: Former subsection 35-26.6, Operating Permits, previously codified herein and containing portions of Ordinance No. O-01-34, was repealed in its entirety by Ordinance No. O-03-27.

§ 35-26.7 Minimum Development Application Requirements. [Ord. No. O-01-34 § 7; Ord. No. O-03-37 § 7; Ord. No. O-09-28 § 2] All telecommunications facilities, except exempt facilities as defined in subsection 35-26.3, shall require major site plan review and approval pursuant to Chapter 33, Planning and Development Regulations. Each application shall include a site plan showing the specific design, location, size and construction of the proposed structure, which shall comply in all respects with the standards enumerated herein. The Community Development Division or its designee shall establish and maintain a list of information that must accompany every application pursuant to Chapter 33, Planning and Development Regulations, which shall include at a minimum all information required by Chapter 33, Planning and Development Regulations for a major site plan application. All development applications for telecommunications facilities shall also provide all information required for a conditional use application, variance application, subdivision application and/or other development application pursuant to Chapter 33, Planning and Development Regulations as is applicable to a particular case, including all application fees and escrow deposit as required by the City of Bayonne Code. In addition to the above requirements, the following information is required for all development applications for all telecommunications facilities:

a. An inventory of existing sites, which shall provide an inventory of all existing towers, antennas, or sites approved for towers or antennas that are within the jurisdiction of the City of Bayonne owned, operated or located on by the applicant, including specific information about the location, height and design of each facility.

b. (Reserved)

c. A visual analysis, which may include photomontage, photo simulation, or other techniques, which identifies the potential visual impacts of the proposed facility. Consideration shall be given to views from public areas as well as from private residences where an applicant has specific authorization to enter upon private property for the purpose of complying with this section. The analysis shall assess the cumulative impacts of the proposed facility and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. All costs for the visual analysis, and applicable administrative costs, shall be borne by the applicant.

§ 35-26.8 Location Preferences. [Ord. No. O-01-34 § 8; Ord. No. O-03-37 § I] Certain areas of the City are more appropriate for the location of personal wireless service facilities because of the existing development in the area or on the site, the types of buildings already existing at the site, the existence of similar or compatible facilities at the particular site, the commercial or industrial nature of the area, the zoning designation of the area and/or the technical suitability of the particular site. Locating facilities in such areas can reduce adverse visual and aesthetic impacts of personal wireless service facilities City wide and help protect the health, safety and welfare of City residents. Therefore, the location preferences and design criteria and guidelines and associated conditions of approval contained in this section are intended to improve any potential visual, aesthetic or neighborhood livability concerns while still facilitating growth of an industry that is important to the City's economic health and whose services are demanded by an increasing number of the City's residents, businesses, workers and visitors.

a. Location of Facilities. Except for those facilities designated in subsection 35-26.3 to be exempt from City review, telecommunications facilities (including but not limited to equipment cabinets) may be located in only those zones and locations as indicated in paragraphs b, c and d below; and only in accordance with the following procedures:

1. All applicants for a new facility shall make a good faith effort to locate in the listed "First Preference Location."

2. Applicants who maintain that they are unable to locate in the "First Preference Location" must demonstrate why they need to locate in one of the areas less preferred.

3. The applicant enumerated in paragraph 2 must demonstrate why each successive preference location below that of the "First Preference Location" cannot be utilized to provide service in the area in question.

b. Preferred Locations. The following areas, locations and/or zoning districts constitute preferred locations for the siting of personal wireless telecommunications facilities:

1. First Preference Location: Type 2, Type 3, Type 4 and Type 5 facilities permitted in the Heavy Industrial Zones;

2. Second Preference Location: Type 2, Type 3, Type 4 and Type 5 facilities permitted in Light Industrial Zones;

3. Third Preference Location: Type 2, Type 3, Type 4 and Type 5 facilities permitted in the Highway Commercial/Selected Light Industrial District;

4. Fourth Preference Location: Types 2 and 3 facilities on municipal property;

5. Fifth Preference Location: Type 5 facilities in all zones;

6. Sixth Preference Location: Type 1 facilities located on property owned, leased, or otherwise controlled by the City, provided a lease authorizing such tower has been approved by the City. The decision to extend such leases to an applicant shall be vested solely with the municipality, and shall not be governed by this section;

7. Seventh Preference Location: Type 3 facilities on nonresidential buildings in the order of preference in the following districts: (a) Central Business District (CBD). (b) Uptown Business District (UBD). (c) Office/Retail Service District (ORS). All of the locations listed above shall subject to the administrative approval procedure defined in this ordinance and shall not require Zoning Board or Planning Board processing. All applications for administrative approval shall be accompanied by an application fee of \$1,000.

c. Conditional Uses. The following uses may be approved by the appropriate Board as conditional uses and shall be considered the Eighth Preference Location.

1. Antennas on Existing Towers Modified Pursuant to the Definition of a Type 1 Facility. An

antenna may be attached to an existing tower in Heavy Industrial, Light Industrial or Highway Commercial Zones and shall be considered an Eighth Preference Location. To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following: (a) A tower that is modified or reconstructed to accommodate the colocation of an additional antenna shall be a monopole. (b) Height. (1) An existing tower may be modified or rebuilt to a taller height, not to exceed the maximum tower height established by this section. (2) The height change referred to in paragraph (b)(1) above may only occur one time per communication tower. (3) The additional height referred to in paragraph (b)(1) above shall not require an additional distance separation as set forth in subsection 35-26.9b. The tower's premodification height shall be used to calculate such distance separations. (c) On-site location. (1) A tower, which is being rebuilt to accommodate the co-location of an additional antenna, may be moved on-site within 50 feet of its existing location. (2) After the tower is rebuilt to accommodate co-location, only one tower may remain on the site. (3) A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers. The relocation of a tower shall be subject to site plan approval by the Planning Board.

2. New Towers. New monopoles may be constructed in a Heavy Industrial Zone, subject to the

conditions outlined in this section, to hold antennas, and shall be considered a Ninth Preference Location. Lattice towers and any type of guyed towers are prohibited. In addition to any information required for applicants for conditional uses pursuant to this chapter, applicants for a conditional use for a tower shall submit the following information: (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth herein, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and other structures, topography, parking, and other information deemed by the Administrative Officer to be necessary to assess compliance with this section.

(b) Legal description of the entire tract and leased parcel (if applicable). (c) The setback distance between the proposed tower and the nearest residential unit and/or residentially zoned properties. (d) The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s). (e) A landscape plan showing specific landscape materials. (f) Method of fencing and finished color and, if applicable, the method of camouflage and illumination. (g) A description of compliance with this section and all applicable Federal, State and/or City laws, rules, regulations and/or ordinances. (h) A notarized statement by the applicant indicating how construction of the tower will accommodate co-location of additional antennas for future users. (i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality. (j) A description of the suitability of the use of existing towers or other structures not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower. (k) A description of the feasible location(s) of future towers or antennas within the City of Bayonne based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected. (l) (Reserved) (m) A statement of intent on whether excess space will be leased.

d. (Reserved)

e. Other than Preferred Location. All applications which propose to locate facilities anywhere other than a preferred location shall require a variance pursuant to N.J.S.A. 40:55D-70.d. In addition to all other requirements, a written opinion from an electronic/telecommunications/radio frequency engineer (or other professional consultant accepted as an expert by the Zoning Board of Adjustment may be required by the Zoning Board of Adjustment, describing: (a) what preferred locations are within the geographic service area; (b) why siting at a preferred location is not possible; (c) what good faith efforts and measures were taken to secure a more preferred location; (d) how and why such efforts were unsuccessful; and (e) how and why the proposed location is essential to meet service demands for the geographic service area.

§ 35-26.9 Development Standards and Requirements. [Ord. No. O-01-34 § 9; Ord. No. O-03-37 § 9]

a. Lot Size. For purpose of determining whether the installation of a tower or antenna complies with zone development regulations, including, but not limited to, setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

b. Separation. The following separation requirements shall apply to all towers.

1. Towers. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas. (a) The minimum distance between any existing or proposed tower and any residential zone district line, school or any site designated on the Federal, State or Municipal Historic Register shall be 500 feet. (b) The minimum separation between existing or proposed towers shall be 1,000 feet.

c. Setbacks. The following setback requirements shall apply to all towers.

1. Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line and all nonappurtenant buildings.

2. All facilities must comply with the minimum setback requirements for the applicable zoning district. In addition, antennas that are roof mounted may not extend beyond the edge of the roofline or exterior walls of the subject building. Flush mounted antennas may extend up to two feet out from the face of the building.

3. Accessory buildings must satisfy the minimum zoning district setback requirements as set forth in this chapter.

4. No tower or antenna shall exist within required buffer areas if adjacent to residential zones and as prescribed under Local Ordinance.

d. Height.

1. The maximum height of any tower shall be not more than 125 feet.

2. The maximum height of any other facility, along with the associated mounting equipment and cabinets, shall not exceed the maximum height permitted in the zone by more than 20%, or 10 feet, whichever is greater.

e. Design Criteria. Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Stealth type towers, designed to resemble flagpoles, wherein the antennas are screened from view by a RF penetrable material are greatly preferred.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and related electrical and mechanical equipment must be of a neutral color, or covered with a siding material, that is identical to, or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. To the greatest extent possible, any antennas located on an existing building shall be surfaced mounted on the building facade at the roofline or along the exterior parapet wall, so as to reasonably blend in with the architectural features of the building.

5. Any antennas located on existing buildings that cannot be flush mounted as specified in paragraph 4 above, and when deemed necessary by the governmental agency with jurisdiction over the application, shall be screened from view with RF penetrable screening. The screening shall be located and designed so as to blend with the architectural character of the building.

6. To the extent reasonably necessary, any public utility lines and/or cables deemed necessary for the operation of the proposed facility shall be located on the ground and/or inside the tower structure or building to which the antennas are attached.

f. Landscaping. The following requirements shall govern the landscaping surrounding towers.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from any adjacent streets, property used for residences or planned residences.

2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced at the sole discretion of the Planning Board or Board of Adjustment.

3. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

4. Additional street trees may be required by the Planning Board or Board of Adjustment to be planted along the streets in the vicinity of any proposed wireless telecommunications facility to provide additional screening and/or aesthetic improvements to mitigate any detrimental visual impacts on the surrounding area.

5. The Planning Board or Board of Adjustment may require that additional decorative landscaping be provided on the site of proposed towers and/or antennas to offset and compensate for the negative visual impact of the proposed towers and/or antennas.

g. Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

h. Signs. No signs or advertisements of any kind, other than appropriate warning signs shall be allowed on an antenna or tower.

i. Fencing. Towers shall be enclosed by decorative security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device. Acceptable fencing types include tubular steel, wrought iron or other similar fencing as approved by the Planning Board or Board of Adjustment. Galvanized chain link fencing, barbed wire and razor wire are expressly prohibited.

j. Accessory Buildings and Other Equipment Storage. The unmanned equipment structures shall not contained more than 360 square feet of gross floor area or be more than 12 feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

§ 35-26.10 Technical Review. [Ord. No. O-01-34 § 10; Ord. No. O-03-37 § 10] The Planning Board and/or Zoning Board is explicitly authorized to, and may, as it deems appropriate, retain an independent technical expert as it deems necessary to provide assistance in the review of the site location alternatives analysis and any technical materials submitted, especially in those cases when a technical demonstration of unavoidable need or unavailability of alternatives is proposed. The applicant shall pay the reasonable costs of the review, incurred by the City, which costs shall be deposited in accordance with the City's escrow ordinance and which shall be in addition to any required escrow requirements for development applications otherwise required by this chapter and/or Site Plan and Subdivision Ordinance.

§ 35-26.11 Monitoring and Maintenance. [Ord. No. O-01-34 § 11; Ord. No. O-03-37 § 11]

a. After the wireless telecommunications facility is in operation, the applicant shall submit within 90 days of the beginning of operations existing measurements of RFR from the wireless telecommunications facility. Such measurements shall be signed and certified by a radio frequency engineer, stating that RFR requirements are accurate and meet FCC guidelines as specified in the Radio Frequency Standards Section of this By-law.

b. The applicant and all co-applicants shall maintain the wireless telecommunications facility in good condition and in compliance with all Federal and State regulations. Such maintenance shall include, but not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer areas and landscaping.

c. The applicant shall on the second anniversary after the wireless telecommunication facility is in operation, submit certification indicating that the facility is in compliance with all Federal and State regulations. This certification shall thereafter be updated every two years and the certification shall be filed with the Bayonne Construction Code Official or his designatee.

§ 35-26.12 Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. [Ord. No. O-01-34 § 12; Ord. No. O-03-37 § 12] Nonconforming towers or antennas that are damaged or destroyed may not be rebuilt without first obtaining administrative approval or a development application approval and without having to meet the separation requirements specified therein. The type, height and location of the tower on site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the tower or antenna shall be deemed abandoned.

§ 35-26.13 Removal of Abandoned Antennas and Towers. [Ord. No. O-01-34 § 13; Ord. No. O-03-37 § 13] Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within 90 days shall be grounds to remove the tower or antenna at the owner's expense by application to a court of competent jurisdiction. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower. The approval authority may require the memorializing resolution of approval, or a memorandum thereof, evidencing the obligation on the part of the applicant and/or the property owner to comply with the removal provision in the event of abandonment to be registered with the Hudson County Register of Deeds.

§ 35-26.14 Enforcement. [Ord. No. O-01-34 § 14; Ord. No. O-03-37 § 14] Enforcement shall be in accordance with the Bayonne Property Maintenance Code, Section 17-10 et seq. and Section 15-1 et seq. for state Uniform Construction Code issues, as the case may be.

§ 35-26.15 (Reserved) [1] [1] Editor's Note: Former subsection 35-26.15, previously codified herein and containing portions of Ordinance No. O-01-34 was repealed in its entirety by Ordinance No. O-03-37.

§ 35-27 through § 35-30. (RESERVED)

§ 35-31 ADMINISTRATION AND ENFORCEMENT.

§ 35-31.1 Zoning Officer. [Ord. No. O-95-12, § 33-9.1] The Zoning Officer, as defined in Chapter 33, Planning and Development Regulations Section 33-2, shall be responsible for the administration and enforcement of this chapter.

§ 35-31.2 Duties of the Zoning Officer. [Ord. No. O-95-12 § 33-9.2; Ord. No. O-09-28 § 2] The duties of the Zoning Officer shall include the following:

a. Review applications for development and issue zoning permits prior to the issuance of construction permits provided that the proposed construction, alteration and/or occupancy is in accordance with this chapter or appropriate approvals have been granted.

b. Investigate violations of this chapter coming to his attention whether by complaint or from personal knowledge or observation.

c. Issue written notices to persons in violation of this chapter, and as circumstances warrant, either

1. Issue a summons for the violation returnable in Municipal Court; or

2. Upon the express authority of the City Council and with the assistance of the Corporation Counsel file in the Superior Court a complaint to terminate the violation or prevent its continuance.

d. Authorize the issuance of certificates of nonconformity, where uses or structures have pre-dated the adoption or amendment of this chapter and are not in accordance with same as a result of such adoption or amendment.

§ 35-31.3 Application for Construction Permit or Certificate of Occupancy. [Ord. No. O-95-12 § 33-9.3]

a. Application to Zoning Officer. Prior to or in conjunction with an application for the issuance of a construction permit or a certificate of occupancy, application shall be made for a zoning permit to the Zoning Officer. The applicant shall submit sufficient information for the Zoning Officer to render a decision. This shall include, but not be limited to:

1. Two copies of the appropriate application form, signed by the applicant.

2. Two copies of each of the following information on one or more drawings: (a) Survey of the property. (b) Plot plans with lot lines, all existing and proposed buildings, alterations and/or additions, with appropriate dimensions and elevations. (c) Dimensioned drawings of all proposed signs, accessory structures, and/or site changes if applicable.

3. An electronic copy of the documents required in Subsection 35-31.1a1 and 2, above.

Electronic submissions shall be submitted to the Zoning Officer and may be in the following formats: PDF, Microsoft Word, JPG or any other electronic format acceptable by the Zoning Officer. The Zoning Officer is permitted to waive the requirement for the submission of any paper copies. [Added 2-17-2021 by Ord. No. O-21-10]

b. Decision by the Zoning Officer. A decision shall be made by the Zoning Officer within seven

days of the submission of a complete application. If the Zoning Officer shall determine that the application material submitted is complete, and that the proposal is in full conformance with this and all other applicable land use ordinances and statutes, and that no additional reviews are required by any other agencies, he shall forthwith issue a Zoning Permit. If the Zoning Officer shall determine that the proposal is not in full conformance with this and all other applicable land use ordinances and statutes, and/or that additional reviews are required by any other agencies, he shall forthwith issue or authorize the issuance of a formal written Letter of Denial to the applicant, setting forth therein the grounds for his decision.

§ 35-31.4 Appeals to the Board of Adjustment. [Ord. No. O-95-12 § 33-9.4] Appeals to the Board of Adjustment pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-70a.), may be taken by any interested party affected by any decision of the Zoning Officer based on or made in enforcement of this chapter or other land use ordinances. Such appeal shall be taken within 20 days of the Letter of Denial by filing a notice of appeal with the Zoning Officer stating the grounds of such appeal. Upon receipt of a notice of appeal, the Zoning Officer shall transmit to the Board of Adjustment all papers constituting the record upon which the action appealed was taken.

§ 35-31.5 Reviews by Approving Agencies. [Ord. No. O-95-12 § 33-9.5]

a. Further Applications. If, after the receipt of a Letter of Denial, the developer wishes to pursue the proposal for development, application shall be made to the Planning Board or Zoning Board of Adjustment.

b. Direct Application. A developer may file an application for development with the Planning Board or Zoning Board of Adjustment, provided that an application made shall make mention of every type of review being sought.

§ 35-31.6 Variance Procedure. [Ord. No. O-95-12 § 33-9.6]

a. Authority for Variances. The Board of Adjustment, or when it has jurisdiction pursuant to the Municipal Land Use Law, the Planning Board, shall hear and decide requests to vary from any of the requirements of this chapter.

b. Jurisdiction of Planning Board. The Planning Board may hear and act on variances pursuant to N.J.S.A. 40:55D-70(c) relating to bulk requirements of this chapter, provided that it is in conjunction with a required subdivision or site plan review.

c. Jurisdiction of Zoning Board of Adjustment. The Zoning Board of Adjustment shall hear and act on all variances, except when jurisdiction may rest with the Planning Board as prescribed by paragraph b above. The Zoning Board of Adjustment shall hear and act on all variances pursuant to N.J.S.A. 40:55D-70(d).

d. Requirements for Variance Approval. In considering and acting upon variances the approving agency shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter.

e. Application. All application materials shall have been submitted in complete conformance with subsection 33-11.9, Variance Submittals of Chapter 33, Planning and Development Regulations. The proposed variance shall be in complete conformance with all applicable ordinances and statutes, where not varied by the approving agency.

f. Conditions of Approval. Any approval of an application for development for a variance granted by the municipal agency shall be subject to the following conditions being satisfied prior to the issuance of a development permit:

1. Payment of any outstanding real estate taxes and property improvement assessments.

2. Publication of a notice of the decision by the Planning Board Secretary or Board of Adjustment Secretary within the time established.

3. Such other conditions which may be imposed by the municipal agency or which may be required by Federal, State or local law.

4. A condition setting forth the time within which all conditions must be satisfied.

g. Expiration of Variance. Any variance granted under this section shall expire one year from the date of publication of the notice of the judgment or determination of the Board of Adjustment unless construction or alteration has actually commenced on each and every structure permitted by the variance, or unless such permitted use has actually been commenced; except, however, that the running of the period of limitation shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

§ 35-31.7 Conditional Use Authorization. [Ord. No. O-95-12 § 33-9.7]

a. Requirement. If required by any of the provisions of this chapter, conditional use approval by the appropriate approving agency shall be obtained prior to the issuance of a construction permit or certificate of occupancy.

b. Approving Agency. The Planning Board shall act as the approving agency for all applications for conditional use approval, except that the Board of Adjustment shall have the power to grant conditional use approval to the same extent and subject to the same restrictions as the Planning Board whenever the Board of Adjustment is reviewing an application for approval of a variance pursuant to subsection 35-31.6c.

c. Requirements for Approval. No conditional use shall be approved unless the approving agency makes the following determinations:

1. All application materials shall have been submitted in complete conformance with subsection 33-11.10, Conditional Use Authorization of Chapter 33, Planning and Development Regulations.

2. The proposal shall be in complete conformance with all applicable conditional use standards where not varied by the approving agency.

3. Approval shall be subject to payment of all taxes and assessments for local improvements due on the property or any part thereof.