

**Agenda No. O-11**

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE CITY OF BAYONNE, CHAPTER 33, PLANNING AND DEVELOPMENT REGULATIONS AND CHAPTER 35, ZONING REGULATIONS**

**WHEREAS**, the Municipal Council of the City of Bayonne, a municipal corporation in the County of Hudson, State of New Jersey, finds that an amendments to the definition section in Chapter 33 Planning and Development Regulations and an addition about unlawful uses of single room occupancies in Chapter 35, the Zoning Regulations of the City of Bayonne, is warranted to clarify the Zoning Regulations' about single room occupancies within the City of Bayonne to ensure the public health, safety, morals, and general welfare pursuant to the purposes of *N.J.S.A. 40:55D-2*; and

**WHEREAS**, in order to effectuate the modifications to Chapter 35, Chapter 33, the Planning and Development Regulations of the City of Bayonne, must also be amended to modify or add definitions,; and

**WHEREAS**, the Planning Board of the City of Bayonne has adopted a Master Plan that comprehensively provides for the appropriate use, regulation and development of lands in the municipality under *N.J.S.A. 40:55D-28*; and

**WHEREAS**, the Municipal Land Use Law at *N.J.S.A. 40:55D-62a* requires substantial consistency of the provisions regulating zoning and land use with the adopted Master Plan; and

**WHEREAS**, the Planning Board has determined that the revisions and amendments to the Unified Development Ordinance are consistent with relevant policies in the Master Plan, represent sound land use regulation and therefore favorably recommends to the Municipal Council that the regulations be so amended; and

**THEREFORE, BE IT ORDAINED**, by the Municipal Council of the City of Bayonne, as follows:

**Section 1.** The Revised General Ordinances of the City of Bayonne, Chapter 33, Planning and Development Regulations, Section 33-2.2, is hereby amended and supplemented by deleting definitions for Dwelling Unit, Owner and Person and adding definitions for Dwelling Unit, Owner/Person and Person/Owner and adding Article XXI Unlawful Residential Occupancies, 33-21.1 Purpose and Intent 33-21.2 Prohibited Acts., 33-21.3 Definitions as follows (new material is **\*\*bold and between double asterisks\*\***, deletions are within ~~{brackets and strikethroughs}~~).

**§ 33-2.2. Definition of Terms.** [Ord. No. O-15-09 § 1; Ord. No. O-01-46 § 32-2.2; New; Ord. No. O-09-28 § 2; Ord. No. O-11-18; Ord. No. O-15-09; amended 3-17-2021 by Ord. No. O-21-13; 4-20-2022 by Ord. No. O-22-15]

**\*\*CUBICLE**

**Shall mean one or more rooms occupied or intended for occupancy with sleeping**

facilities, but without one or more of the requirements of a "dwelling unit" as defined herein.\*\*

**{DWELLING UNIT**

~~Shall mean one or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.]~~

**\*\*DWELLING UNIT**

**Shall mean one or more rooms designed, occupied or intended for occupancy as separate living quarters for one family with access directly from the outside of the building or through a common hall or passageway and for which separate cooking, sleeping and sanitary facilities are provided within the dwelling unit for the exclusive use of the occupants.\*\***

**{OWNER**

~~Shall mean an individual, firm, association, syndicate, copartnership or corporation having sufficient propriety interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter. }~~

**\*\*ILLEGAL DWELLING UNIT**

**Any one of the following shall constitute an illegal apartment or unit:**

- a. **An apartment or unit for which no Certificate of Occupancy has been issued; or**
- b. **An apartment or unit, which would exceed the number of units permitted under the Zoning Regulation, Building and Housing Code or under any of the conditions of any approvals granted by the Planning Board or Zoning Board of Adjustment of the City; or**
- c. **An apartment or unit which fails to meet the requirements of any Fire Code affecting the health, safety and welfare of the general public; or**
- d. **An apartment or unit that fails to meet the requirements of the State of New Jersey Housing Law; or**
- e. **An apartment or unit wherein the owner permitted occupancy without obtaining the required plumbing, electrical or building permits; or**
- f. **Any other apartment or unit deemed by any governmental agency or by judicial decree to be in violation of any state, county or municipal regulation.\*\***

**\*\*OWNER/PERSON**

**Shall mean the fee owner, individual, whether a natural person, corporation, copartnership, corporation having sufficient propriety interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same, company, association, society, firm, syndicate, partnership or joint-stock company, limited liability company, executor, administrator, trustee, receiver, or guardian of the estate of the title holder or the mortgagee in possession, the State and all political**

subdivisions of the State or any agency or instrumentality thereof or other entity or any other natural person, corporation, limited liability company with authority or apparent authority to lease, rent or authorize occupancy from the fee owner.\*\*

**{PERSON**

~~Shall mean a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, the State and all political subdivisions of the State or any agency or instrumentality thereof.}~~

**\*\* PERSON/OWNER**

Shall mean the fee owner, individual, whether a natural person, corporation, copartnership, corporation having sufficient propriety interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same, company, association, society, firm, syndicate, partnership or joint-stock company, limited liability company, executor, administrator, trustee, receiver, or guardian of the estate of the title holder or the mortgagee in possession, the State and all political subdivisions of the State or any agency or instrumentality thereof or other entity or any other natural person, corporation, limited liability company with authority or apparent authority to lease, rent or authorize occupancy from the fee owner.\*\*

**\*\*TENANT**

Any person residing or occupying with the consent of the owner in an apartment or unit of housing space. Any person in possession of an apartment or unit of housing space by way of owner's failure to inspect, maintain or care for the property.\*\*

**\*\*Article XXI Unlawful Residential Occupancies.**

**\*\*§ 33-21. UNLAWFUL RESIDENTIAL OCCUPANCIES**

**\*\*§ 33-21.1. Purpose and Intent.**

1. It has been brought to the attention of the City of Bayonne Zoning Officer and/or the City of Bayonne Fire Official that there are a number of unlawful residential occupancies within the City of Bayonne and that said unlawful residential occupancies continue to exist within the City of Bayonne.
2. The purpose of this chapter is to discourage and penalize real estate property owners from operating and creating or, by way of failing to inspect, maintain or care for the property on a regular basis, permitting the operation or creation of an apartment contrary to Building and Housing Codes (Chapter 15), Fire Prevention and Protection Codes (Chapter 19), Planning and Development Regulations (Chapter 33) and/or Zoning Regulations (Chapter 35) or any other applicable state, county or municipal regulation and to take the appropriate action to eliminate or legalize said unlawful residential occupancies.
3. The Bayonne City Council finds that such unlawful residential occupancies are

a detriment to the citizens of the City of Bayonne and that abating these violations promotes the general health, welfare and safety of the citizens of Bayonne.

4. Eliminating the number of unlawful residential occupancies in the City of Bayonne requires enforcement and the imposition of stringent penalties for offenders, especially repeat offenders.\*\*

**\*\*§ 33-21.2. Prohibited Acts.**

- a. No person shall: (1) lease nor offer to lease; or (2) rent nor offer to rent; or (3) collect rent nor lease payments; or (4) barter for services in lieu of rent or lease payments; or (5) permit occupancy by any other tenant(s) or other person(s) of any "Illegal Dwelling Unit" as defined herein;
- b. No person shall: (1) lease nor offer to lease; or (2) rent nor offer to rent; or (3) collect rent nor lease payments; or (4) barter for services in lieu of rent or lease payments; or (5) permit occupancy of any "cubicle" as defined herein.\*\*

**\*\*§ 33-21.3. Definitions.**

As used in this section:

**CUBICLE**

Shall mean one or more rooms occupied or intended for occupancy with sleeping facilities, but without one or more of the requirements of a "dwelling unit" as defined herein.

**DWELLING UNIT**

Shall mean one or more rooms designed, occupied or intended for occupancy as separate living quarters for one family with access directly from the outside of the building or through a common hall or passageway and for which separate cooking, sleeping and sanitary facilities are provided within the dwelling unit for the exclusive use of the occupants.

**ILLEGAL DWELLING UNIT**

Any one of the following shall constitute an illegal apartment or unit:

- g. An apartment or unit for which no Certificate of Occupancy has been issued; or
- h. An apartment or unit, which would exceed the number of units permitted under the Zoning Regulation, Building and Housing Code or under any of the conditions of any approvals granted by the Planning Board or Zoning Board of Adjustment of the City; or
- i. An apartment or unit which fails to meet the requirements of any Fire Code affecting the health, safety and welfare of the general public; or
- j. An apartment or unit that fails to meet the requirements of the State of New Jersey Housing Law; or

- k. **An apartment or unit wherein the owner permitted occupancy without obtaining the required plumbing, electrical or building permits; or**
- l. **Any other apartment or unit deemed by any governmental agency or by judicial decree to be in violation of any state, county or municipal regulation.**

#### **OWNER/PERSON**

**Shall mean the fee owner, individual, whether a natural person, corporation, copartnership, corporation having sufficient propriety interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same, company, association, society, firm, syndicate, partnership or joint-stock company, limited liability company, executor, administrator, trustee, receiver, or guardian of the estate of the title holder or the mortgagee in possession, the State and all political subdivisions of the State or any agency or instrumentality thereof or other entity or any other natural person, corporation, limited liability company with authority or apparent authority to lease, rent or authorize occupancy from the fee owner.**

#### **TENANT**

**Any person residing or occupying with the consent of the owner in an apartment or unit of housing space. Any person in possession of an apartment or unit of housing space by way of owner's failure to inspect, maintain or care for the property. \*\***

**Section 2.** SECTION 35-4: The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations is hereby amended and supplemented by adding section 35-4.30 Unlawful Residential Occupancies, 35-4.31 Prohibited Acts., 35-4.32 Definitions as follows (additions **\*\*bold and between double asterisks\*\***):

#### **\*\*§ 35-4.30. UNLAWFUL RESIDENTIAL OCCUPANCIES.**

##### **a. Purpose and Intent.**

5. **It has been brought to the attention of the City of Bayonne Zoning Officer and/or the City of Bayonne Fire Official that there are a number of unlawful residential occupancies within the City of Bayonne and that said unlawful residential occupancies continue to exist within the City of Bayonne.**
6. **The purpose of this chapter is to discourage and penalize real estate property owners from operating and creating or, by way of failing to inspect, maintain or care for the property on a regular basis, permitting the operation or creation of an apartment contrary to Building and Housing Codes (Chapter 15), Fire Prevention and Protection Codes (Chapter 19), Planning and Development Regulations (Chapter 33) and/or Zoning Regulations (Chapter 35) or any other applicable state, county or municipal regulation and to take the appropriate action to eliminate or legalize said unlawful residential occupancies.**
7. **The Bayonne City Council finds that such unlawful residential occupancies are a detriment to the citizens of the City of Bayonne and that abating these violations promotes the general health, welfare and safety of the citizens of Bayonne.**

8. **Eliminating the number of unlawful residential occupancies in the City of Bayonne requires enforcement and the imposition of stringent penalties for offenders, especially repeat offenders.\*\***

**\*\*§ 35-4.31. Prohibited Acts.**

- c. **No person shall: (1) lease nor offer to lease; or (2) rent nor offer to rent; or (3) collect rent nor lease payments; or (4) barter for services in lieu of rent or lease payments; or (5) permit occupancy by any other tenant(s) or other person(s) of any "Illegal Dwelling Unit" as defined herein;**
- d. **No person shall: (1) lease nor offer to lease; or (2) rent nor offer to rent; or (3) collect rent nor lease payments; or (4) barter for services in lieu of rent or lease payments; or (5) permit occupancy of any "cubicle" as defined herein.\*\***

**\*\*§ 35-4.32. Definitions.**

**As used in this section:**

**CUBICLE**

**Shall mean one or more rooms occupied or intended for occupancy with sleeping facilities, but without one or more of the requirements of a "dwelling unit" as defined herein.**

**DWELLING UNIT**

**Shall mean one or more rooms designed, occupied or intended for occupancy as separate living quarters for one family with access directly from the outside of the building or through a common hall or passageway and for which separate cooking, sleeping and sanitary facilities are provided within the dwelling unit for the exclusive use of the occupants.**

**ILLEGAL DWELLING UNIT**

**Any one of the following shall constitute an illegal apartment or unit:**

- m. **An apartment or unit for which no Certificate of Occupancy has been issued; or**
- n. **An apartment or unit, which would exceed the number of units permitted under the Zoning Regulation, Building and Housing Code or under any of the conditions of any approvals granted by the Planning Board or Zoning Board of Adjustment of the City; or**
- o. **An apartment or unit which fails to meet the requirements of any Fire Code affecting the health, safety and welfare of the general public; or**
- p. **An apartment or unit that fails to meet the requirements of the State of New Jersey Housing Law; or**
- q. **An apartment or unit wherein the owner permitted occupancy without obtaining the required plumbing, electrical or building permits; or**

- r. Any other apartment or unit deemed by any governmental agency or by judicial decree to be in violation of any state, county or municipal regulation.

**OWNER/PERSON**

Shall mean the fee owner, individual, whether a natural person, corporation, copartnership, corporation having sufficient propriety interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same, company, association, society, firm, syndicate, partnership or joint-stock company, limited liability company, executor, administrator, trustee, receiver, or guardian of the estate of the title holder or the mortgagee in possession, the State and all political subdivisions of the State or any agency or instrumentality thereof or other entity or any other natural person, corporation, limited liability company with authority or apparent authority to lease, rent or authorize occupancy from the fee owner.

**TENANT**

Any person residing or occupying with the consent of the owner in an apartment or unit of housing space. Any person in possession of an apartment or unit of housing space by way of owner's failure to inspect, maintain or care for the property. \*\*

**Section 3. Repealer.** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

**Section 4. Interpretation.** If the terms of this Ordinance shall be in conflict with those of another Ordinance, the provision which imposes the greater restriction or limitation shall control.

**Section 5. Severability.** If any section, part of any section, or clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this Ordinance. The Municipal Council of the City of Bayonne declares that it would have passed the Ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**Section 6. Effective Date.** This Ordinance shall take effect twenty (20) days after final passage, transmittal to the Hudson County Planning Board, and publication according to law.