

**ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON, NEW JERSEY AMENDING AND SUPPLEMENTING THE GENERAL ORDINANCES OF THE CITY OF BAYONNE, CHAPTER 33, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 2.2 DEFINITION OF TERMS, SECTION 12.3 SCHEDULE OF FEES FOR EXTENSION OF LAND USE APPROVAL(S); and CHAPTER 35, ZONING REGULATIONS, SECTION 5.26 AREA, YARD, HEIGHT AND DENSITY REQUIREMENTS; and SCHEDULE I AREA, YARD, HEIGHT AND DENSITY REQUIREMENTS.**

**WHEREAS**, pursuant to N.J.S.A. 40:55D-62 the City of Bayonne, in the County of Hudson, New Jersey (the “City”) may adopt or amend Planning and Development Regulations by Ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

**WHEREAS**, the City’s Planning and Zoning professionals have reviewed the City’s Planning and Development Regulations and have identified ambiguities in the City’s definition of terms and schedule of fees for land use approvals; and

**WHEREAS**, the City’s Planning and Zoning Board of Adjustment Secretary has reviewed the City’s Planning and Development Regulations and has identified certain definitions that should be amended, supplemented and revised and land use approval fees that should be consolidated and/or reduced; and

**WHEREAS**, the City’s Zoning Officer has reviewed the City’s Zoning Regulations and has identified certain inconsistencies in the height requirements that should be revised to align with updated definitions in the City’s Planning and Development Regulations; and

**WHEREAS**, the removal of ambiguity and the consolidation and/or reduction of certain fees will allow the uniform application of the Planning and Development Regulations as written in the text of the General Ordinances and will provide residents with certainty in the regulation of their property; and

**WHEREAS**, the Municipal Council desires to adopt zoning that is in the City’s best interest to maintain and support stability, future growth, development and uniform zoning determinations on all parcels of land in the City; and

**WHEREAS**, the Municipal Council believes that amending the Planning and Development Regulations is in the best interest of the City that the General Ordinances of the City of Bayonne, Chapter 33 “Planning and Development Regulations” and Chapter 35 “Zoning Regulations” be amended to update and clarify ambiguity in the definition of terms and schedule of fees and to consolidate and/or reduce land use approval fees; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-64 the City hereby refers this Ordinance and proposed amendments to the Planning Board for a hearing and seeks their recommendations as to the consistency with the Master Plan of the City.

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY AS FOLLOWS:**

**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** The Revised General Ordinances of the City of Bayonne, Chapter 33, Planning and Development Regulations, Section 2.2 Definition of Terms, is hereby amended and supplemented as follows (additions **\*\*between asterisks and/or in bold\*\***, deletions ~~{within brackets and/or struck through}~~):

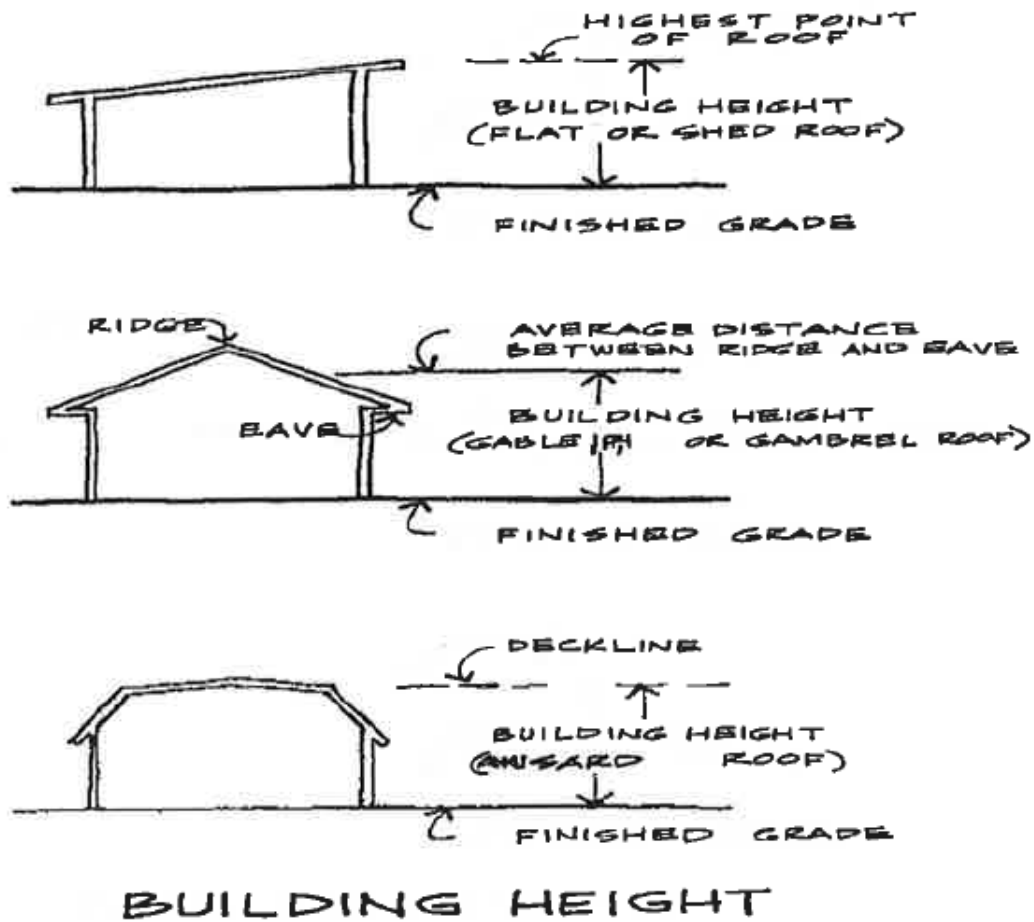
33-2.2 Definition of Terms.

As used in this chapter and Chapter 35, Zoning Regulations, the following words and terms shall have the meaning set forth, except where otherwise specifically indicated. Additional definitions for the Historic Preservation Commission and Tree Preservation are found in Chapter 37 and Chapter 14. Words and terms not defined shall have the meaning indicated by common dictionary definition.

ABUTTING COUNTY ROAD through HAZARDOUS MATERIALS – No change.

HEIGHT OF BUILDING

Shall mean the vertical distance ~~{from the average finished ground elevation on any side around the foundation of a building or structure to the level of the highest point of the roof surface}~~ **\*\*measured from mean finished grade along the side(s) of the building facing the street or street line to the highest point of the roof. This shall not include roof appurtenances such as parapets, elevator and stair bulkheads, required mechanical equipment and semi-permanent roof coverings such as awnings, pergolas or canopies. For sloping roofs, it will be vertical distance from finished grade to the average distance between eaves and the ridge level for gable, hip and gambrel roofs\*\*.**



HISTORIC through LANDSCAPE FEATURE – No change.

**\*\*LIVABLE SPACE\*\***

**\*\*Livable space shall mean any area between a floor and ceiling or roof line that is at least seven (7) feet in height, per the IBC (International Building Code) and IRC (International Residential Code).\*\***

LOADING SPACE through SOCIAL CLUB OR LODGE – No change.

**STORY**

Shall mean that portion of a building {included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between the floor and the ceiling next above it; the interior of a roof shall be considered 1/2 story} **\*\*consisting of a minimum seven (7) feet of vertical height between the surface of any floor and roof/ floor above it, that is defined as a livable space and is counted as a full story. Any space between the floor and roof with less than seven (7) feet and is not livable space, as defined herein, shall not be considered a story.**

**Ground story containing livable space behind the garage and consisting of minimum seven (7) feet of vertical height between floor and roof/ floor above it shall be considered a story \*\*.**

**STORY, HALF**

Shall mean a ~~{story under a pitched roof at the top of a building}~~ **\*\*space under a roofline at the top of a building, which has vertical distance of minimum seven (7) feet between roof and ceiling and the total area of this livable space is 50% or less of the total area of the floor below it.**

**A half-story may not have its own separate entrance or exit. A half-story, which does not contain an internal staircase, may not have a kitchen, bedroom(s) or plumbing. A half-story, which contains an internal staircase, creating a duplex, may not have a kitchen or bedroom(s) but may include a half-bathroom\*\*.**

STREET through ZONING REGULATIONS – No change.

**Section 3.** The Revised General Ordinances of the City of Bayonne, Chapter 33, Planning and Development Regulations, Section 12.3 Schedule of Fees for Extension of Land Use Approval(s), is hereby amended and supplemented as follows (additions **\*\*between asterisks and/or in bold\*\***, deletions ~~{within brackets and/or struck through}~~):

33-12.3 Schedule of Fees for ~~{Extension of}~~ Land Use Approval(s).

Fee Table I			
<b>** PLANNING BOARD AND BOARD OF ADJUSTMENT APPLICATIONS**</b>			
Application Type	Application Fees	Escrow Fees	
<del>{PLANNING BOARD AND BOARD OF ADJUSTMENT APPLICATIONS}</del>	Nonrefundable	Initial Deposit	
RESIDENTIAL/NONRESIDENTIAL WITH SITE PLAN	<del>{\$1,000 except where noted herein}</del>	<b>**\$1,500 except where noted herein**</b>	
RESIDENTIAL WITH NO SITE PLAN	<del>{\$500 except where noted herein}</del>	<b>**\$500 except where noted herein**</b>	
SITE PLAN			
Minor Site Plan	No change	No change	
<b>**Wireless Site Plan**</b>	<b>**\$1,500**</b>	<b>**\$5,000**</b>	
Preliminary Major Site Plan Residential	<del>{\$250}</del> <b>**\$500**</b> for 1st unit, plus \$100 per	1 to 3 lots or units	<del>{\$500}</del> <b>**\$1,000**</b>

	additional unit	4 to 10 lots or units	{ <del>\$1,500</del> } <b>**\$2,000**</b>
		11 to 25 lots or units	No change
		26 to 50 lots or units	No change
		51 to 100 lots or units	No change
		In excess of 100 lots or units	No change
Preliminary Major Site Plan Nonresidential	{ <del>\$750</del> } <b>**\$1,000**</b> , plus \$0.25 per square feet of building area up to \$5,000	No change	
Final Major Site Plan Residential	No change	1 to 3 lots or units	{ <del>\$500</del> } <b>**\$1,000**</b>
		4 to 10 lots or units	{ <del>\$1,500</del> } <b>**\$2,000**</b>
		11 to 25 lots or units	{ <del>\$2,000</del> } <b>**\$3,000**</b>
		26 to 50 lots or units	{ <del>\$2,500</del> } <b>**\$3,500**</b>
		51 to 100 lots or units	{ <del>\$3,000</del> } <b>**\$5,000**</b>
		In excess of 100 lots or units	{ <del>\$5,000</del> } <b>**\$7,500**</b>
Final Major Site Plan Nonresidential	No change	No change	
Site Plan Amendment	No change	No change	
<b>SUBDIVISION</b>			
Minor Subdivision	No change	No change	
Preliminary Major Subdivision	No change	No change	

Final Major Subdivision	No change	No change
<b>**General Development Plan as per <u>N.J.S.A. 40:55D-6</u>**</b>	<b>**\$2,500**</b>	<b>**\$7,500**</b>
CONDITIONAL USE	No change	No change
SPECIAL MEETING {S} REQUESTS	No change	No change
REZONING	No change	No change
APPEALS, INTERPRETATIONS AND VARIANCES	No change	No change
“a” and “b” Appeals and Interpretations as per <u>N.J.S.A. {4:55D-70}</u> <b>**40:55D-70**</b> (a) and (b) (request for interpretation, etc.)	No change	\$1,000 <del>{(which may be waived or reduced deemed not to require staff time in excess of 5 hours)}</del>
“c” Variance as per <u>N.J.S.A. 40:55D-70(c)</u>	\$100 <b>**for the first variance or deviation when not accompanied by a major or minor site plan or subdivision**</b>  <b>**\$200 for the first variance or deviation when accompanied by a major or minor site plan or subdivision**</b>  <b>**\$150 for each additional**</b>	No change
“d” Variance as per <u>N.J.S.A. 40:55D-70(d)</u> <b>** (Residential)**</b>	\$250 <del>{(residential)}</del>	No change
<b>**“d” Variance as per <u>N.J.S.A. 40:55D-70(d)</u> (Nonresidential)**</b> <del>{(without site plan or subdivision)}</del>	\$500 <del>{(nonresidential)}</del>	No change
<b>**DESIGN WAIVER**</b>	<b>**\$250**</b>	<b>**None**</b>
<b>**RESUBMISSION OF PLANS (Required for all applications)**</b>	<b>**None**</b>	<b>**30% of original escrow fees**</b>
REVIEW FOR COMPLETENESS		

Nonresidential Sign Variance or driveways	No change	No change	
All other nonresidential	No change	No change	
Residential	No change	No change	
TECHNICAL REVIEW COMMITTEE	{ <del>\$25</del> } <b>**\$400 for 10 units, or less than 5,000 square feet**</b>	{ <del>\$1,000 and W-9 form</del> } <b>**\$1,500**</b>	
	<b>**\$500 for 11 units or more, or more than 5,000 square feet**</b>	<b>**\$3,000**</b>	
HISTORIC PRESERVATION COMMISSION APPLICATIONS	No change	No change	
{ZONING PERMIT}	{Pursuant to Section 33-4.1d}	{N/A}	
REDEVELOPMENT PROJECT SURCHARGE (Public Hearing on Application, Investigation, Study or Plan)	No change	No change	
{Fee Table I} <b>EXTENSIONS</b>			
Category	{Yield}	Fee	Escrow
{ <del>Attached/Detached 1 and 2 family residence</del> }		{ <del>Partially Refundable</del> } <b>**Nonrefundable**</b>	Refundable
MINOR SITE PLAN			
Residential		No change	No change
Nonresidential		No change	No change
MINOR SUBDIVISION			
Residential		No change	No change
Nonresidential		No change	No change
MAJOR SITE PLAN {*}			
Residential		<b>**\$1,000**</b>	<b>**\$500**</b>

	{1 to 10 d.u.}	{\$250/d.u.}	{\$100/d.u.}
	{11 to 20 d.u.}	{\$350/d.u.}	{\$100/d.u.}
	{21 to 30 d.u.}	{\$500/d.u.}	{\$100/d.u.}
	{31 to 50 d.u.}	{\$750/d.u.}	{\$100/d.u.}
	{51 to 100 d.u.}	{\$1,000/d.u.}	{\$100/d.u.}
	{100 d.u. or greater}	{\$1,250/d.u.}	{\$100/d.u.}
Nonresidential		<b>**\$2,000**</b>	<b>**\$500**</b>
	{1 to 5,000 s.f.}	{\$0.25/s.f.}	{\$0.25/s.f.}
	{5,001 to 10,000 s.f.}	{\$0.35/s.f.}	{\$0.25/s.f.}
	{10,001 to 20,000 s.f.}	{\$0.50/s.f.}	{\$0.25/s.f.}
	{20,001 to 30,000 s.f.}	{\$0.75/s.f.}	{\$0.25/s.f.}
	{30,001 to 50,000 s.f.}	{\$1/s.f.}	{\$0.25/s.f.}
	{50,001 to 100,000 s.f.}	{\$1.25/s.f.}	{\$0.25/s.f.}
	{100,001 s.f. or greater}	{\$1.50/s.f.}	{\$0.25/s.f.}
MAJOR SUBDIVISION			
Residential		No change	No change
Nonresidential		No change	No change
USE VARIANCE (D)		No change	No change
BULK VARIANCE (C)		No change	No change
DESIGN WAIVER		No change	No change

{\*—— The minimum fee and escrow amount for a major site plan shall be \$500}

NOTES:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.



**Section 4.** The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.26 Area, Yard, Height and Density Requirements is hereby amended and supplemented as follows (additions **\*\*between asterisks and/or in bold\*\***, deletions ~~{within brackets and/or struck through}~~):

35-5.26 Area, Yard, Height and Density Requirements.

- a. No change.
- b. No change.
- c. No change.
- d. No change.
- e. No change.
- f. No change.
- g. No change.
- h. No change.
- i. No change.
- 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 **\*\*(2)\*\*** 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.
  - 2. No change.
  - 3. No change.
  - 4. No change.
  - 5. No change.
- k. No change.

**Section 5.** Schedule I Area, Yard, Height and Density Requirements for the Zoning Regulations has been updated in accordance with this Ordinance and is attached hereto as **Exhibit A** to this Ordinance.

**Section 6.** The City Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the City of Bayonne Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Municipal Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance

that are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Municipal Council deems appropriate.

**Section 7.** Any and all prior Planning and Development Regulations or Zoning Regulations of the City that are inconsistent with this Ordinance are superseded by the Planning and Development Regulations and Zoning Regulations adopted by this Ordinance.

**Section 8.** If any part of this Ordinance shall be deemed to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

**Section 9.** A copy of this Ordinance and the Planning and Development Regulations and the Zoning Regulations shall be available for public inspection at the office of the City Clerk during regular business hours.

**Section 10.** This Ordinance shall take effect in accordance with all applicable laws.

**Summary (not part of Ordinance)**

This Ordinance revises the definitions of Height, Livable Space, Story and Half-Story to provide additional clarity and consistency in applying the Planning and Development Regulations.

This Ordinance also revises the Zoning Regulations and Schedule I to reflect the updated Planning and Development Regulations definitions. The revised Schedule I is attached to the Ordinance as Exhibit A.

This Ordinance also removes inconsistencies and corrects the title of the Fee Table/Schedule for PB and ZBA Applications.

The amounts of fees and escrow deposits are updated to accurately reflect fees required for review of applications and application extensions.