

O-24-10
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ORDINANCE AMENDING CHAPTER 33 DEFINITIONS AND CHAPTER 35 OF THE CODE OF THE CITY OF BAYONNE, HUDSON COUNTY, NEW JERSEY, TO REMOVE THE I-H-O DISTRICT AND MODIFY THE I-H DISTRICT TO ALLOW FOR ALTERNATIVE ENERGY PRODUCTION, STORAGE AND TRANSMISSION

WHEREAS, the Municipal Council of the City of Bayonne, a municipal corporation in the County of Hudson, State of New Jersey, finds that an amendment to the I-H Heavy Industrial District in Chapter 35, the Zoning Regulations of the City of Bayonne, is warranted to clarify the Zoning Regulations' permission of alternative energy uses, storage, and transmission of electrical energy that will guide the development of property in appropriate geographical locations that promote the public health, safety, morals, and general welfare pursuant to the purposes of *N.J.S.A. 40:55D-2*; and

WHEREAS, the Municipal Council of the City of Bayonne further finds that the purpose of the I-H-O Specialized Heavy Industrial District Overlay zone has been achieved through the means of redevelopment area designation and plans and no longer is necessary to effectuate the goals and objectives for which it was originally adopted; 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

WHEREAS, this amendment does not specifically follow from the 2017 Reexamination Report of the Master Plan and consequently, individual public notice shall be required to the property owners of the land subject to the zoning changes pursuant to *N.J.S.A. 40:55D-62.1*.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Municipal Council of the City of Bayonne, in the County of Gloucester, State of New Jersey, as follows:

Section 1. §33-2.2, Definitions, of Chapter 33, shall be amended by adding the following definitions:

Battery Storage – One or more devices, assembled together, which can charge, discharge, and store energy for use at a future time. Battery energy storage systems provide increased flexibility, reliability, and resilience to accommodate the growing complexity of balancing supply and demand.

Catenary System – A system of transmission or distribution electrical lines hung from poles or towers to distribute high voltage power to substations or the electrical grid.

Electrical Grid – A wide area grid of electrical transmission lines controlled by an interconnection operator, or regional transmission organization, responsible for the provision of electrical power in a given region of the United States.

Section 2. §35-5.19, I-H-O Specialized Heavy Industrial Overlay, is hereby repealed and reserved.

Section 3. §35-5.17, I-H Heavy Industrial District, as modified, is hereby revised to add new sections as designated by underlining [thus] and as sections to be removed designated by being struck thru, [~~thus~~].

§ 35-5.17. I-H Heavy Industrial District.

- a. Purpose. The Heavy Industrial District (I-H) is intended to provide a location for manufacturing, assembly, distribution and the refining and distribution of petroleum products; outdoor storage supporting these uses; the production and transmission of energy through alternative energy sources and similar such processes; contractor, heavy equipment and utility storage yards, and similar industrial uses.
- b. 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 Establishments."
 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.
- c. Permitted Accessory Uses.
 1. Permitted accessory uses as in the IL-A and IL-B Districts.
 2. Maintenance building not exceeding 30,000 sf. in gross floor area.
 3. Gatehouses and security buildings, each not exceeding 1,000 sf. in gross floor area.

- d. Permitted Conditional Uses. Subject to the conditional use standards of Schedule II in §35-5.28, Conditional Uses, as applicable:
1. Tank farms and bulk storage of flammable or combustible liquids.
 2. Automobile storage facilities for impounded or towed vehicles, subject to the following criteria:
 - (a) Facility operator shall possess a valid towing license issued by the State of New Jersey.
 - (b) Facility operator shall be licensed by the City of Bayonne under §4-29, et seq. of the 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 twenty-five (25) foot-wide buffer shall be provided.
 - (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, and its geographical extension eastward, 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.
 3. Renewable Electricity Transmission, Conversion and Storage Facilities, subject to the criteria herein. Such facilities for this use may consist of a facility or combination of facilities dedicated to supporting, transmitting, switching, regulating, converting, or storing energy (including, but not limited to, energy generated by wind, solar, or other green sources), such as an electrical substation, converter station, Battery Storage, circuit breakers, power conditioning equipment, or any related electrical components. Such facilities

may include customary accessory uses, such as, but not limited to, any electrical components, office/operation buildings, security buildings, spare part storage, transformers, Battery Storage, catenary system, and transmission and distribution lines either above ground, submerged, or underground for connection to the electrical grid. Renewable Electricity Transmission, Conversion and Storage Facilities are subject to the following conditions:

- (a) Such use shall be permitted on Block 418, Lots 3 and 4; Block 419, Lots 1 and 1.01; Block 427, Lot 3; Block 480, Lot 1; Block 481, Lots 3, 3.01, 5.03 and 6; and Block 482, Lots 3, 4, 4.01, 5, 6 and 9.02, only.
- (b) In addition to the review and approval of the such use under N.J.S.A. 40:55D-1 et seq., any such proposed development shall be subject to review for the secure access and perimeter of the site by the appropriate level of government up to and including the U.S. Department of Homeland Security, as required by law.

e. Area, Yard and Structure Requirements.

- 1. Minimum area: one acre.
- 2. Minimum lot frontage: 125 feet.
- 3. Minimum front yard 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 setback shall be 25 feet, except that the combination of both side yards shall be at least 50 feet.
- 6. Maximum Height.
 - (a) Principal Structure: None.
 - (b) Accessory Structure: None.
- 7. Floor Area Ratio: None.
- 8. Maximum lot coverage of all principal and accessory structures: 90% of total lot area

f. Special Requirements.

- 1. All uses are subject to the performance standards in §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 "'I' 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 shall include the following:

- (a) Block 412 - Lot 3 (6.43 ac.);
 - (b) Block 415 - Lot 1 (2.59 ac.);
 - (c) Block 415 - Lot 2 (7.53 ac.);
 - (d) Block 416 - Lot 3 (17.56 ac.);
 - (e) Block 417 - Lot 1 (6.22 ac.);
 - (f) Block 417 - Lot 3 (8.99 ac.); and
 - (g) Block 417 - Lot 2 (2.07 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.

Section 4. Repealer. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 5. 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 6. 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 7. 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.