

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE NO. 2020-10

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 5: “ADMINISTRATION OF GOVERNMENT” AND CHAPTER 450: “ZONING” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO CLARIFY THE ADMINISTRATION OF ZONING PERMIT APPLICATIONS AND TO LOCATE SUCH PROVISIONS IN A MORE INTUITIVE AND READILY ACCESSIBLE LOCATION WITHIN THE CODE FOR APPLICANTS.

Mayor Engelstad offered the following Ordinance and moved its introduction:

WHEREAS, upon the recommendation of the Borough’s Zoning Officer, the Borough’s Mayor and Council have considered amending the Revised General Ordinances of the Borough to clarify the administration, enforcement, and procedures for zoning permit applications; and

WHEREAS, the Borough’s Mayor and Council have determined that implementing the amendments recommended by the Borough’s Zoning Officer would provide more clarity and certainty for applicants submitting zoning permit applications to the Borough; and

WHEREAS, the Borough’s Mayor and Council find that placing such amendments and newly adopted provisions within Chapter 450: “Zoning”, rather than under Chapter 5: “Administration of Government”, would allow applicants to find the standards and procedures in a more intuitive location; and

WHEREAS, the Borough’s Mayor and Council believe that adopting such amendments will enhance the efficiency and economy of the Borough’s operations, as well as enhance applicants’ interactions with the Borough;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Subsection D entitled “Zoning Officer” of Section 35 entitled “Offices within Department; Zoning Permits” of Article VII entitled “Department of Construction, Code Enforcement, Zoning and Department of Community Development” of Chapter 5 entitled “Administration of Government” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken text deleted~~; underlined text added):

**ARTICLE VII DEPARTMENT OF CONSTRUCTION, CODE ENFORCEMENT,
ZONING AND DEPARTMENT OF COMMUNITY
DEVELOPMENT**

§ 5-35 Offices within Department; zoning permits.

* * *

D. Zoning Officer.

1. There is hereby created the position of Zoning Officer for the Borough of Bradley Beach.
2. *Duties.* The duties of the Zoning Officer shall be:
 - a. To administer and enforce the Zoning Ordinances of the Borough of Bradley Beach.
 - b. To issue zoning permits in accordance with the provisions of Section 79 of Chapter 450, Zoning, this chapter of the Code of the Borough of Bradley Beach.
 - c. To interpret Chapter 450, Zoning, and answer all inquiries with regard to zoning.
 - d. To keep a record of all applications for zoning permits and of all zoning permits and certificates issued, with a notation of all special conditions involved.
 - e. To file and safely keep copies of all plans submitted in conjunction with an application for a zoning permit.
 - f. To collect and record fees for zoning permits.
 - g. To prepare a monthly report for the Borough summarizing all activity of the previous month concerning the duties of the Zoning Officer.
 - h. The Zoning Officer shall be deemed to be the Administrative Officer as defined in N.J.S.A. 40:55D-3 and shall also issue certifications on behalf of the Borough of Bradley Beach, certifying whether or not a subdivision has been approved by the Borough.
 - i. The Zoning Officer shall conduct field inspections and special investigations to ensure compliance with various municipal ordinances, initiate and enforce rules and regulations in relation to enforcement of ordinances, initiate necessary legal action against violators of various municipal ordinances, prepare needed reports, establish and maintain the records and files, and may assist in the promulgation of municipal ordinances.
3. *Compensation.* The annual salary for the position of Zoning Officer of the Borough of Bradley Beach shall be determined from time to time by the Mayor and Council and shall be paid in accordance with the provisions of the Salary Ordinance of the Borough of Bradley Beach.

4. ~~Zoning permits.~~

- a. ~~Zoning permits shall hereafter be issued or denied by the Zoning Officer prior to commencement of a use or the construction, reconstruction, erection, alteration, conversion or installation of any structure or part of a structure, or installation, alteration or extension of any impervious surface on any lot or land within the Borough.~~
- b. ~~All requests for zoning permits shall be made in writing by the owner or his duly authorized agent and shall include a statement of the use or intended use of the building or structure or land and shall be accompanied by a plan or plat showing thereon the exact size, shape and location of all proposed structures and all existing structures, all proposed and existing impervious surfaces, and such other information as may be necessary to provide for the enforcement of this chapter.~~
- c. ~~A zoning permit shall be issued by the Zoning Officer for the installation of any utilities or for any other land improvements or development that have been previously approved or are contemplated by any approval granted by the Planning Board, Zoning Board of Adjustment, or Municipal Utilities Department, whichever case may apply.~~
- d. ~~The fee for an application for a zoning permit shall be \$45, which fee shall be paid at the time of application.~~
- e. ~~The Zoning Officer shall grant or deny an application for a zoning permit within 10 business days of the application.~~
- f. ~~Temporary zoning permits may be issued by the Zoning Officer for the location of temporary trailers permitted by this Code for a period not to exceed one year; however, the permit may be renewed for like periods until completion of construction. Such permits may be revoked or reissue refused in the event that the trailer is no longer used for the purposes for which the permit was issued or the use discontinued, subject to the penalties for violation of this Code.~~

5. ~~Zoning determination.~~

- a. ~~Zoning determination shall be requested on the approved form available from the Department. The request form will be reviewed and a determination will be prepared by the Zoning Officer on the use of the property.~~
- b. ~~The fee for a zoning determination shall be \$100 per property, which fee shall be paid at the time of form submittal.~~

SECTION 2. Section 79 entitled “Violations and Penalties” of Article XVI entitled “Violations and Penalties” Chapter 450 entitled “Zoning” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

ARTICLE XVI VIOLATIONS AND PENALTIES ADMINISTRATION,
ENFORCEMENT, ZONING PERMITS, VIOLATIONS.

* * *

§ 450-79 Administration, Enforcement, Zoning Permits, Violations and penalties.

~~The penalty for violation of any provision of this chapter where no other penalty of fine or imprisonment is provided shall be as provided in Chapter 1, Article II, General Penalty, of this Code. This penalty shall be in addition to any different type of penalty or sanction provided in this chapter.~~

A. Administration. These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. Any action taken by the Borough under the terms of this chapter or Chapter 270, Land Development, shall give primary consideration to the above mentioned matters and to the welfare of the entire community of Bradley Beach.

B. Enforcement. It shall be the duty of the Zoning Officer of the Borough to administer and enforce the provisions of this chapter and Chapter 270 of this Code. No structure or building improvement shall be erected until a zoning permit is obtained by the Zoning Officer and no structure or lot shall be used in violation of this chapter or Chapter 270 of this Code. It shall be the duty of the Zoning Officer to keep a record of all zoning permit applications and all zoning permits which are either issued or denied, with notations of any conditions involved, which data shall form a part of the Borough's public records. It shall be the duty of the Zoning Officer to inspect the structures and land in the Borough and order the owner in writing to remedy any condition found to exist in violation of any provision(s) of this chapter and/or Chapter 270 of this Code.

C. Zoning Permits.

1. When required. A zoning permit shall be issued prior to:

- a. The commencement or change of use of a property, building or structure;
- b. The commercial occupancy of any building or structure; or

c. The construction, erection, reconstruction, alteration, conversion, or installation of any building or structure.

2. Submission requirements. Every application for a zoning permit shall be accompanied by three (3) copies of a current survey/site plan and three (3) sets of construction plans. Surveys must show the existing conditions and exact location of physical features including metes and bounds, drainage, waterways, specific utility locations and easements, all drawn to scale. All surveys must be prepared by a land surveyor. Survey information may be transposed to a site plan if the date of the survey and by whom and for whom it was prepared is noted on the site plan. Vegetation, general flood plain determinations or general location of existing utilities, buildings or structures may be shown by an architect, planner, engineer, land surveyor, or certified landscape architect. All plans must display the actual shape and dimensions of the lot to be built upon, the exact location, size and height of all existing and proposed structures and substructures (drawn to scale), the number of dwelling units the structure is designed to accommodate, the number and location of off-street parking spaces and off-street loading areas and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of the Zoning and Land Development Ordinances of the Borough.

3. A zoning permit shall be granted or denied, in writing, within ten (10) business days from the date of a complete application submission, unless additional time is agreed upon. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a land surveyor licensed in the State of New Jersey. No zoning permit shall be issued for any structure until prior site plan, subdivision and variance approvals as may be necessary, have been granted by the appropriate Board in accordance with the provisions of the Zoning and/or Land Development Ordinances of the Borough and until all review and inspection fees and all local taxes and assessments on the property have been paid.

4. The fee for an application for a zoning permit shall be \$45, which fee shall be paid at the time of application.

5. The fee for a zoning determination shall be \$100 per property, which fee shall be paid at the time of application.

6. Temporary zoning permits may be issued by the Zoning Officer for the location of temporary trailers permitted by this Code for a period not to exceed one year; however, the permit may be renewed for like periods until completion of construction. Such permits may be revoked or reissue refused in the event that the trailer is no longer used for the purposes for which the permit was issued or the use discontinued, subject to the penalties for violation of this Ordinance.

D. Violations. In case any building or structure is erected, constructed, reconstructed, altered, moved or converted; or any building, structure or land is used in violation of, or contrary to, the provisions of the Zoning and/or Land Development Ordinances, the Borough may institute an action to enjoin or take any other appropriate action to remedy such unauthorized activity – including remediation or removal. Nothing in this Code shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

E. Penalties.

1. Fines.

- a. Any person, firm or corporation that shall violate any provisions of this Ordinance shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be fined such sum not exceeding \$2,000.00 as such court in its discretion may impose; or if the party so convicted be a natural person, such person may be sentenced to community service not exceeding ninety (90) days, as such court in its discretion may impose; or, if the party so convicted be a natural person, such person may be imprisoned for such term not exceeding ninety (90) days, as such court in its discretion may impose; or such natural person may be both imprisoned and fined not exceeding the maximum limits set forth herein, as such court in its discretion may impose. Each day that such violation exists shall constitute a separate offense.
- b. Any person or entity who assists in the commission of any such violation shall each be guilty of a separate violation, and upon conviction thereof shall each be liable for the same fines or imprisonment, or both, as specified in subsection 450-79(E)(1)(a) hereinabove. These persons or entities may include but are not limited to the owner(s) of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, and any architect, builder, developer, contractor, agent, person or corporation engaged in connection therewith where anything in violation of the Zoning and/or Land Development Ordinances of the Borough shall be placed or shall exist or be suffered, allowed or permitted to exist.

2. Selling Land Before Subdivision Approval.

- a. If, before final subdivision approval has been granted, any person as owner or agent, transfers or sells or agrees to transfer or sell any land which forms a part of a subdivision for which municipal approval is required in accordance with the provisions of the Zoning and/or Land Development Ordinances of the Borough, except pursuant to an agreement expressly conditioned on final subdivision approval, such person shall be subject to a penalty not to exceed \$1,000.00, and each lot disposition so made may be deemed a separate violation.
- b. In addition to the foregoing, the Borough may institute and maintain a civil action:
 - i. For injunctive relief; and
 - ii. To set aside and invalidate any conveyance made pursuant to such a contract or sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.
- c. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider or his or her assigns or successors, to secure the return of any deposit made or purchase price paid, and also a reasonable search fee, survey

expense and title closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale conveyance of said land, or within six (6) years if unrecorded.

F. Additional Remedies. In addition to the remedy or remedies hereinbefore provided, any person, persons, company or corporation violating Borough Ordinances or any provision or section thereof, may be proceeded against by the Borough of Bradley Beach or by the Zoning Officer of the Borough of Bradley Beach or any designee of the Borough of Bradley Beach or Zoning Officer or by the owner of any property in the Borough of Bradley Beach by appropriate action or by proceeding in equity or otherwise to prevent and enjoin any threatened violation or any existing violation or continuing violation of the Borough Ordinances or any provision or section thereof.

SECTION 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Bradley Beach, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Bradley Beach for its review in accordance with 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 Borough's Mayor & Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 6. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

SO ORDAINED as aforesaid.

ERICA KOSTYZ
Municipal Clerk

GARY ENGELSTAD
Mayor

Introduced:

Date of Hearing and Adoption: