

BOROUGH OF BRADLEY BEACH

COUNTY OF MONMOUTH

ORDINANCE 2023-12

**AN ORDINANCE REPLACING CHAPTER 450: “ZONING”
OF THE BOROUGH’S REVISED GENERAL ORDINANCES
TO UPDATE THE BOROUGH’S ZONING REGULATIONS.**

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, the Borough of Bradley Beach (the “Borough”) is empowered to enact zoning ordinances and regulations pertaining to the development and improvement of lands within the Borough; and

WHEREAS, the Borough has encountered certain circumstances and several land use disputes that have highlighted the need for revisions and clarifications to the Borough’s zoning ordinances and regulations; and

WHEREAS, in consultation with the Borough Engineer and Zoning Officer, the Borough finds it necessary to update Chapter 450: “Zoning” of the Borough’s Revised General Ordinances;

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. Chapter 450 entitled “Zoning” of the Revised General Ordinances of the Borough of Bradley Beach is hereby replaced in its entirety as follows:

CHAPTER 450
ZONING

ARTICLE I
TITLE; PURPOSE

§ 450-1 Title.

This Chapter shall be known and may be cited as the “Zoning Ordinance of the Borough of Bradley Beach.”

§ 450-2 Purpose.

For the purpose of encouraging the most appropriate use of the land throughout the Borough and to conserve the value of property with reasonable consideration for the character of the zone and its peculiar suitability for particular uses; all in accordance with a comprehensive plan designed to provide a well-balanced and stable economic structure; control rate and direction of growth; lessen congestion in the streets; secure safety from fire, panic, and other damages; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; and to that end, to regulate the height, design, appearance, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied, the size of the yards, courts and other open spaces; the density of population and the location and use of other purposes; and the height, size and location of these uses within the limits of the Borough, these regulations are hereby established and shall hereafter apply.

ARTICLE II
TERMINOLOGY

§ 450-3 General meaning of words and phrases.

- A. Words used in the present tense include the future tense.
- B. Words used in the singular include the plural, and conversely words used in the plural include the singular.
- C. The word "shall" is always mandatory.
- D. The word "lot" includes the word "plot" or "premises."
- E. The word "used" includes the words "intended to be used," "designed to be used" or "arranged to be used."
- F. The word "occupied" includes the words "intended to be occupied," "designed to be occupied" or "arranged to be occupied."
- G. The word "person" includes a corporation as well as an individual.
- H. The word "demonstrate" means to provide such visual, written, or oral information as will enable the designated reviewing agency or board to ascertain the scope and nature of a proposed use or operation, and to render an informed opinion or decision thereon.

§ 450-4 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT — The relinquishment of property, or cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

ACCESSORY APARTMENT — A dwelling unit with a separate means of ingress and egress containing separate kitchen, bathroom, and sleeping facilities, that is physically attached to or contained within an existing single-family house.

ACCESSORY DWELLING — An additional dwelling unit located on the same lot and having an independent means of access.

ACCESSORY STRUCTURE — A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE — A use of land or of a building or a portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ACT OF GOD — An unintentional hazard event (usually, but not necessarily a natural event) that is no fault of the owner of the property damaged or destroyed by the hazard event.

ADDITION —

- A. A structure added to the original structure at some time after the completion of the original;
- B. An extension or increase in floor area, height, or volume of a building or structure.

ADMINISTRATIVE OFFICER — The Clerk of the municipality, unless a different municipal official or officials are designated by ordinance or statute.

ALLEY — A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION — Any change or rearrangement in supporting members of an existing building, such as bearing walls, columns, beams, girders, ceilings, or interior partitions, as well as any change in doors, windows, or means of ingress or egress; or the addition of heat to any unconditioned building, or any enlargement to or diminution of a building or structure, whether horizontally or vertically; or the moving of a building or structure from one location to another.

APARTMENT — A room or suite of rooms, including complete kitchen facilities, toilet, bathing and washing facilities, and living space that is designed or intended to be used as a single dwelling unit. The dwelling unit may be individually owned or all dwelling units in a building may be commonly owned and rented. If owned individually, the building common areas and facilities shall be owned by all the owners on a proportional undivided basis.

APPLICANT — Any person, firm, partnership, corporation, or public agency submitting an application for development.

APPLICATION FOR DEVELOPMENT — The application form and accompanying documents and exhibits required of an applicant by an approving authority for development review and approval purposes.

APPROVED PLAN — A plan that has been granted final approval by the appropriate approving authority.

APPROVING AUTHORITY — The Land Use Board of the Borough of Bradley Beach, unless a different agency is designated by ordinance when acting pursuant to the authority of this chapter.

AS-BUILT PLANS — Accurate and precise drawings of post-construction site features and characteristics, including all buildings, structures, infrastructure, boundaries, and natural features.

ASSOCIATION — That person or persons to whom townhouse lots and structures are conveyed and those that will by formal agreement as between them form an association together with the owner or developer for the purpose of the preservation and maintenance of the common lands and/or facilities heretofore defined.

AWNING — A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BAFFLE — Any deflector device used to change the direction or the flow of water, sewage, products of combustion, sound waves, air, or illumination.

BALCONY — An exterior covered or uncovered platform structure, enclosed by a railing, that sits within the footprint of the first or second floor of the dwelling below. A balcony cannot be over the footprint of a porch. No balcony floor is allowed above the highest story or half-story walking surface elevation.

BARBECUE STRUCTURE — An uncovered structure consisting of an outdoor cooking surface such as a grill or stove including countertops and cabinets that is permanently affixed to the ground.

BASEMENT — A space having no more than one half of its floor-to-ceiling height above the average level of the adjoining finished grade and with a floor-to-ceiling height of not less than seven feet.

BED AND BREAKFAST - an owner-occupied facility providing sleeping or dwelling accommodations and a morning meal to transient guests for compensation.

BEDROOM — A private room of at least 70 square feet, planned and intended for sleeping, including a closet, a window, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

BLOCK — The area bounded by one or more streets or a municipal boundary as shown on the Borough Tax Map and being of sufficient size to accommodate a lot or lots of the size required by Chapter 450, Zoning.

BOARDINGHOUSE — A rooming house in which meals are served, excluding hotels.

BUFFER — A landscaped area designed to act as a visual screen between a potentially unsightly or otherwise undesirable or incompatible use and adjacent properties.

BUILDING — Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind and intended for the use in one place.

BUILDING AREA — The total of areas taken on a horizontal plane at the main grade level of the principal building, accessory buildings, and other roofed areas and overhangs, but excluding uncovered porches, terraces, patios, decks and steps at height less than the highest first finished floor.

BUILDING COVERAGE — See "coverage, building."

BUILDING EAVE HEIGHT — The vertical distance from adjacent grade to the lowest point of the roof, or a point 24 inches offset from the facade of the building, whichever is higher.

BUILDING FOOTPRINT — The area encompassed by a building's outer wall at ground level.

BUILDING HEIGHT — The vertical distance measured from the average finished grade surrounding the building to the highest point of the roof. Unnatural and/or structural alterations to the topography of a property to achieve a greater peak elevation of a structure shall not be permitted.

BUILDING LINE — A line formed by the intersection of a horizontal plane and a vertical plane that coincides with the most projected exterior surface of the building. All yard requirements are measured to the building line.

BUILDING OR STRUCTURE, NONCONFORMING — A structure or building, the size, dimension or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the site on which it is situated.

BULK REGULATIONS — Standards applying to individual lots that control the placement, intensity, and character of development and include the amount of open space on the lot, the height of structures, setbacks from property lines and public rights-of-way, impervious coverage, floor area ratio, and density.

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces cannabis in this state and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS RETAILER — Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers.

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

CELLAR — A space with less than one half of its floor-to-ceiling height above the average finished grade of the adjoining ground and has a floor-to-ceiling height of less than seven feet.

CHANNEL — A watercourse with a definite bed and banks that confine and conduct continuously or intermittently flowing water.

CIRCULATION — Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or transshipment points.

COMMON OPEN SPACE — Open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMPLETE APPLICATION — An application for development completed as specified by ordinance and the rules and regulations of the approving authority and the provisions of all required documents.

CONCEPT PLAN — A schematic or conceptual design for land development, prepared for informal review purposes that carries no vesting rights or obligations on any party.

CONDITIONAL USE — A use permitted in a particular zone when it is shown that such use in a specific location will comply with all the conditions and standards for the location and/or operation of the use as specified in the Land Development Ordinance and authorized by the Land Use Board.

CONDOMINIUM ASSOCIATION — The community association that administers and maintains the common property and common elements of a condominium.

CONSISTENCY — A requirement that all land development regulations be consistent with a comprehensive masterplan of the municipality, county, or state.

CONSOLIDATION — The removal of lot lines between contiguous parcels.

CONTIGUOUS — Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

CORNICE — Any horizontal member, structural or nonstructural, projecting outward from the exterior walls at the roofline, including eaves and other roof overhang.

COVERAGE, BUILDING — The ratio on a lot, expressed as a percentage to the total lot area, of the horizontal building area, measured from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings, detached garage, garage apartment, second floor and half-story cantilevers, sheds in excess of 100 square feet, or a shed of any size that is built over an impervious surface. Shed foundations of lumber, wood or timber are considered to be pervious.

COVERAGE, IMPERVIOUS — All items as listed in "coverage, building" plus the area of any impervious surfaces, including, walks, driveways, patios, pavers, elevated decks, decks on grade areas that exceed 5% of lot size, in-ground private swimming pool area that exceeds 4% of lot size, aboveground swimming pools, steps, and any other area that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. The following items are not included in this calculation:

- A. Loose stone;
- B. Deck on grade areas up to 5% of the lot size;
- C. Stairs for decks;
- D. Storage sheds up to 100 square feet; and
- E. In-ground private swimming pool water surfaces up to 4% of the lot size.

CROSSWALK or WALKWAY — A right-of-way, dedicated to public use, to facilitate pedestrian access.

CUL-DE-SAC or DEAD-END STREET — A street or portion of a street in which accessibility is limited to only one point of ingress and egress.

DECK, ELEVATED — An exterior aboveground, open and uncovered platform structure without walls, higher than 12 inches above grade attached to a dwelling. (See also "rooftop deck.") An elevated deck cannot be situated within the footprint of the dwelling.

DECK, ON GRADE — An exterior open and uncovered platform structure without walls, 12 inches or lower above grade. A deck, on grade cannot be located above the lowest finished floor of the dwelling.

DECK, ROOFTOP — An open exterior covered or uncovered platform structure, located above the highest finished floor of the dwelling. Rooftop decks are specifically prohibited.

DENSITY — The number of families, individuals, dwelling units, households, or housing structures per unit of land.

DENSITY, GROSS RESIDENTIAL — The total number of dwelling units developed on an area of land, including the areas dedicated to public access and open space.

DENSITY, NET RESIDENTIAL — The total number of dwelling units which may be developed on an area of land excluding the areas dedicated to public access and open space.

DESCRIPTIVE SUMMARY — A statement accompanying an application to the Land Use Board, or government agency that covers the main points of the application concisely, but without overwhelming details, in a manner that serves to clearly describe the nature of the application to the Board or agency.

DEVELOPER — The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase or any other person having an enforceable proprietary interest in such land.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this chapter.

DEVELOPMENT REGULATIONS — Chapter 450, Zoning, Chapter 60, Land Use Procedures, the Zoning Map and any other municipal regulation of the use and development of land or amendment thereto, adopted and filed pursuant to the New Jersey Municipal Land Use Law.

DISTURBANCE — Any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity that causes soil to be exposed to the danger of erosion or creates a hazard.

DIVERSION — A channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope or grade.

DORMER — A projection from a sloping roof containing one or more windows.

DORMER, STAIRWELL — A dormer which encloses the stairwell.

DRAINAGE — The removal of surface water or groundwater from land by drains, grading or other means, including provisions to control runoff to minimize erosion during and after construction or development, provisions for preserving groundwater supply and provisions for prevention or alleviation of flooding.

DRIVEWAY — A private roadway providing access to a street or highway.

DWELLING — Any structure or portion thereof designed or used exclusively as the residence by one or more persons. Hotels, motels, dormitories, fraternity or sorority houses, rooming and/or boarding houses and other similar group quarters and institutional living space shall not be considered a "dwelling" as defined in this chapter.

DWELLING, MULTIPLE-FAMILY — A structure containing three or more separate dwelling units, designed for or occupied by three or more families living independently of one another.

DWELLING, SINGLE-FAMILY — A structure containing one dwelling unit, designed for or occupied by one family.

DWELLING, TWO-FAMILY — A structure containing two separate dwelling units, designed for or occupied by two families living independently of one another.

DWELLING, TOWNHOUSE — A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

DWELLING UNIT — Any room or group of rooms within a structure, or portion thereof, forming a single habitable unit with facilities used or designed to be used for living, sleeping, cooking, eating and sanitation providing complete living facilities for one family.

EASEMENT — A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

ENTRY PLATFORM — An exterior covered or uncovered platform structure leading to a first floor dwelling entrance.

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

ESCROW — A deed, bond, cash, or other security delivered to a third person or agency and delivered by the third person to the grantee only upon fulfillment of a condition.

ESSENTIAL SERVICES — Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, water, sewerage, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service for the area in which they are located.

FACADE — The exterior portion of a building, exposed to public view.

FENCE — A natural, or artificially constructed, barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FINAL APPROVAL — The last official action of the approving agency taken on a development plan that has been given preliminary approval, after all conditions and requirements of preliminary approval have been met and either the required improvements have been installed or guarantees properly posted for their installation, or approval has been granted subject to the posting of such guarantees.

FIRE ESCAPE — A staircase installed on the outside of a building that is fireproof used for evacuating a burning building.

FLOOR AREA — The total enclosed floor area of a building measured from the exterior face of a structure used for residential purposes or for business or commercial activities which, in the case of the latter, includes customer facilities, showcase facilities, storage and sales facilities. Floor area shall be computed as follows:

- A. Ground-floor area shall be considered as the overall exterior dimensions of the dwelling exclusive of porches, garages, patios, basements and cellars.
- B. Second- and third-floor areas shall be considered as floor area only when the side walls are at least five feet in height over a finished floor and reach a ceiling height of at least seven feet.
- C. Split-level dwellings shall be considered as one-story or ground-level dwellings unless a third level is constructed. To be considered a split-level dwelling, a building shall contain three or more floor levels, each separated from the adjoining floor level by a vertical distance of more than one foot three inches but less than seven feet.

FRONTAGE — The front lot line; that side of a lot abutting a street.

GARAGE, PRIVATE — A structure that is accessory to a dwelling use, is used for the parking and storage of vehicles owned and operated by the residents thereof, and is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC — A structure or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARDEN APARTMENT — A building or group of buildings containing multiple dwelling units each of which is completely contained on a single floor.

GAZEBO — A freestanding roofed structure open on the sides and supported by columns.

GLARE — The effect produced by light from a luminaire with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GOVERNING BODY — The Mayor and Council of the Borough of Bradley Beach.

GRADE, FINISHED — The final elevation of the average ground level adjoining a building at all exterior walls after development.

GRADE, NATURAL — The elevation of the ground level in its natural state, before construction, filling, or excavation.

HALF-STORY — A story under a sloping roof, which may have dormers with windows, having a floor area not exceeding 50% of the floor area below it, inclusive of any balconies on said story. The roof rafters shall intersect the exterior wall within one foot of the floor of said half story. See also "story, half.

HARDSCAPE — Nonliving components of a landscape design, such as walls, sculpture, paved walkways, patios, stone and gravel areas, benches, fountains, and similar hard- surface areas and objects.

HOME OFFICE — A room or facility supporting business or business-like activity, which is conducted for profit, support, charitable purpose, or otherwise, which is incidental and secondary to the use of a structure as a dwelling unit, and which does not change the essential residential character of the dwelling unit.

LAND — Ground, soil, and/or earth.

LAND DISTURBANCE — Any activity involving the clearing, cutting, excavating, filling, or grading of land, or any other activity that alters land topography or vegetative cover.

LANDLOCKED — A lot or parcel of land without direct access to a public road.

LAND SURVEYOR — One who is licensed by the state as a land surveyor and is qualified to make accurate field measurements and to mark, describe, and define land boundaries.

LAND USE — A description of how land is occupied or used.

LAND USE BOARD — The Land Use Board of the Borough of Bradley Beach.

LANDSCAPE —

- A. An expanse of natural scenery;
- B. Elements used in the alteration and/or ornamentation of open space, including lawns, trees, plants, and other natural materials, such as rock and wood chips.

LANDSCAPE PLAN — A component of a development plan on which are shown:

- A. Proposed landscape species (such as number, spacing, size at time of planting, and planting details).
- B. Proposals for protection of existing vegetation during and after construction.
- C. Proposed treatment of hard and soft surfaces.
- D. Proposed decorative features.
- E. Grade changes.
- F. Buffer and screening devices.
- G. Any other information that can reasonably be required for an informed decision to be made by the approving authority.

LIGHTING PLAN — A plan showing the location, the height above grade, the type of illumination, the type of fixture, the source lumens, and the luminous area for each source of light proposed.

LIMITS OF CLEARING — The boundaries of that area of land to be cleared of trees and other vegetation in conjunction with a proposed development or land use.

LOADING SPACE — An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

LOT — A designated parcel, tract, or area of land established by plat, subdivision, or otherwise permitted by law, to be separately owned, used, developed, or built upon.

LOT, CORNER — A lot or parcel of land abutting on two or more streets at their intersection or on two parts of the same street, forming an interior angle of less than 135°. Each corner lot shall have 2 front yards, one side yard, and one rear yard. The rear yard shall always be opposite the front entrance to the primary structure on such corner lot.

LOT, IMPROVED — A lot with buildings, structures, or hardscaping.

LOT, INTERIOR — A lot that has frontage on only one street.

LOT, MINIMUM AREA OF — The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

LOT, NONCONFORMING — A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

LOT, SUBSTANDARD — A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

LOT, THROUGH — A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

LOT AREA — The total area within the lot lines of a lot excluding any public right-of-way.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines. In the case of a corner lot, the greater frontage shall be the lot depth except where frontages are the same; the frontage on the north-south street shall be the lot depth.

LOT FRONTAGE — That portion of the lot extending along the street line the horizontal distance between the side lot lines, measured along the street line. In the case of a corner lot, the smaller frontage shall be the lot frontage, except where frontages are the same; the frontage on the east-west street shall be the lot frontage.

LOT LINE — Any line dividing one lot from another lot or from a public thoroughfare. LOT

LINE, FRONT — The lot line separating a lot from a street or public right-of-way. LOT LINE,

REAR — The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE — Any lot line other than a front or rear lot line.

LOT WIDTH — The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building front setback line.

MAINTENANCE GUARANTEE — Any security that may be required and accepted by a governmental agency to ensure that necessary improvements will function as required for a specific period of time. See also "performance guarantee."

MASTER PLAN — A comprehensive, long-ranged plan, developed by the Borough Planning Board and adopted by the Governing Body, intended to guide the growth and development of a community or region. This plan is typically adopted and in effect for a set period of time and typically includes inventory and analytic sections leading to recommendations for the community's land use, future economic development, housing, recreation and open space, transportation, community facilities, and community design, all related to the community's goal and objectives for these elements.

MAYOR — The chief executive of the Borough.

MEANS OF INGRESS AND EGRESS — The portal that serves as the entrance and exit point from a site or building.

MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER — An organization issued a permit, including a conditional permit, by the state to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

MEDICAL CANNABIS CULTIVATOR — An organization holding a permit issued by the state that authorizes the organization to possess and cultivate cannabis and deliver, transfer, transport, distribute, supply, and sell medical cannabis and related supplies to other medical cannabis cultivators and to medical cannabis manufacturers, clinical registrants, and medical cannabis dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes.

MEDICAL CANNABIS DISPENSARY — An organization issued a permit by the state that authorizes the organization to purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver; and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers.

MEDICAL CANNABIS MANUFACTURER — An organization issued a permit by the state that authorizes the organization to purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator or a clinical registrant; purchase or obtain medical cannabis products from another medical cannabis manufacturer or a clinical registrant; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply, and sell medical cannabis products and related supplies to medical cannabis manufacturers and to medical cannabis dispensaries and clinical registrants.

MINIMUM PARKING STANDARDS — A set of requirements included in land use regulations that require a certain minimum ratio or parking standard that a particular development is required to meet on-site in order to obtain development approval.

MUNICIPAL AGENCY — The Land Use Board or governing body or any agency created by or responsible to the municipality when acting pursuant to this chapter.

MUNICIPAL LAND USE LAW — Chapter 291 of the Laws of New Jersey, 1975, as amended from time to time.

MUNICIPALITY — Any city, borough, town, township or village.

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) — A standard code system to describe and classify business establishments based on the activities in which they are primarily engaged.

OFFICE BUILDING COMPLEX — A group of office buildings, planned, developed, owned and managed as a unit.

OFF-SITE — Located outside the lot lines of the lot in question. **ON-SITE** — Located within the lot lines of the lot in question.

OPEN SPACE, PUBLIC — An open space area conveyed or otherwise dedicated to the Borough, a Borough agency, the Board of Education, a state or county agency, or any other public body for recreational or conservational uses.

ORDINANCE — A law or regulation adopted by a governing body.

OUTDOOR LIVING AREA — An outdoor area that constitutes a structure as defined in this chapter and is designed or used for outdoor gathering, lounging, dining, and/or similar use, in association with a dwelling.

OVERHANG — The part of a roof or wall that extends beyond a lower wall.

PARKING RATIO — The minimum number of on-site parking spaces required by formula for various types of land use.

PARKING SPACE — The area required for the parking of one automobile which, for the purposes of the chapter, is held to be an area nine feet wide and 18 feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto; a space for the parking of a motor vehicle within a public or private parking area.

PARKING SPACE, HANDICAPPED — Parking spaces reserved for people with disabilities, typically marked with the international symbol of access.

PARTIAL DESTRUCTION — A building or structure that, because of fire, flood, explosion, or other calamity, requires the rebuilding of less than half of the original floor area.

PATIO — A level hardscaped surface normally or customarily used as an exterior sitting area, being not more than 12 inches above the adjacent ground level at any point. A patio cannot be located above the elevation of the lowest finished floor of the dwelling.

PERFORMANCE GUARANTEE — Any security that may be accepted by a governmental entity to ensure that improvements required as part of an application for development will be satisfactorily completed.

PERFORMANCE STANDARD — A set of criteria or limits relating to certain characteristics that a particular use or process must achieve.

PERGOLA — A detached structure which is a garden feature forming a shaded walkway, passageway, or sitting area of vertical posts or pillars that usually support cross-beams and a sturdy open lattice, often upon which woody vines are trained. Top of pergola must be greater than 70% open.

PERIMETER — The boundaries or borders of a lot, tract, or parcel of land.

PERMEABILITY — The speed with which water can drain through soil.

PERMITTED USE — Any use allowed in a zone as a matter of right.

PERVIOUS SURFACE — Any material that permits full or partial absorption of stormwater into previously unimproved land.

PLAN — A map, plan or layout of a city, town, section, subdivision or property indicating the location and boundaries of individual properties or lots.

PLAT — The map or maps of a subdivision or site plan or a portion thereof.

PLAT, FINAL — A map of all or portion of a subdivision that is presented to the approving authority for final approval.

PLAT, PRELIMINARY — A layout of a proposed subdivision of sufficient accuracy and detail to be used for the purpose of discussion and classification, and preliminary approval.

PORCH — An exterior covered, open structure without walls, supported on columns and constructed upon a foundation of masonry, concrete, piers or piles.

PORCH, UPPER — An exterior open and uncovered platform structure - without walls, accessed from a second floor. An upper porch must be located above a porch.

PREAPPLICATION CONFERENCE — A conference attended by the planner, engineer, zoning officer, or their representative and other boards or agencies as may be required for a specific application.

PREEXISTING USE — The use of a lot or structure prior to the time of the enactment of a zoning ordinance or amendment thereto.

PRELIMINARY APPROVAL — The conferral of certain rights prior to final approval, after specific elements of a development plan have been approved by the approving authority and agreed to by the applicant.

PRELIMINARY FLOOR PLAN AND ELEVATION — Architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form, its scope, scale and relationship to its site and immediate environs.

PROHIBITED USE — A use that is not permitted in a zone.

PROJECTIONS — Part of a building or structure that projects from a wall or roof.

PUBLIC DRAINAGEWAY — The land reserved or dedicated for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel, and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

QUORUM — The majority of the full authorized membership of a municipal agency.

REDEVELOPMENT — The removal and replacement, rehabilitation, or adaptive reuse of an existing structure or structures, or of land from which previous improvements have been removed.

REHABILITATION — The restoration of a property, previously in a dilapidated or substandard condition, for human habitation or use, without drastically changing the plan, form, or style of architecture.

RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS) — N.J.A.C. Title 5, Chapter 21, adopted January 6, 1997, as subsequently revised, also referred to as "RSIS."

RESTAURANT — An establishment at which food is sold for consumption on the premises.

RESUBDIVISION — The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law but does not include conveyances so as to combine existing lots by deed or other instrument.

RIGHT-OF-WAY LINE — The lines that form the boundaries of a right-of-way.

ROOMING HOUSE — A building arranged or used as defined in N.J.S.A. 55:13B-3, as amended.

SATELLITE ANTENNA — Any apparatus that is designed for the purpose of receiving and transmitting television, radio, microwave, satellite or similar signals, with the exception of conventional television antennas.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported, or has been removed from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

SEDIMENTATION — The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

SEDIMENT BASIN — A barrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel, silt or other material.

SHOPPING CENTER — A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

SIGHT TRIANGLE — A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SIGN — Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, or direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by means of words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

SIGN, PREEXISTING NONCONFORMING — A sign lawfully erected and maintained prior to the adoption of an ordinance, that, because of amendments to that ordinance, no longer conforms with the requirements of that ordinance.

SITE PLAN — The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order for an informed decision to be made by the approving authority.

SITE PLAN, EXEMPT - Shall mean that site plan approval shall not be required prior to issuance of a Development Permit for the following:

- A. Construction, additions, or alterations related to single-family or two-family detached dwellings or their accessory structures on individual lots.
- B. Any change in occupancy which is not a change in use.
- C. Individual applications for accessory mechanical or electrical equipment, whose operation and location conforms to the design and performance standards of this Chapter, and whose installation is on a site already occupied by an active principal use for which site plan approval is not otherwise required.
- D. Sign(s) which installation is on a site already occupied by a principal use for which site plan approval is not otherwise required and provided such sign(s) conform to the requirements of this Chapter.
- E. Division of property and conveyances so as to combine existing lots, which are not considered to be subdivisions in accordance with the definition of "Subdivision" contained within this Article.
- F. The redevelopment and/or reconstruction of any structure destroyed, in total or in part, by reason of wind, fire, water incursion, exposure or other act of God, or public enemy, provided that such redevelopment and/or reconstruction shall be in accordance with Chapter 450-12.

SITE PLAN, MINOR — A development plan of one or more lots which meet all of the following criteria:

- A. Proposes new development of not more than 1,000 square feet of new or additional floor area;
- B. Not more than five new or additional off-street parking spaces;
- C. Meets all the requirements of the zone in which it is located;
- D. Does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42; and
- E. Contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

SITE PLAN, MAJOR — Any site plan not classified as a “minor site plan” or “exempt site plan.”

SOIL EROSION CERTIFIED PLAN — A plan for soil erosion and sediment control that meets the standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Commission Committee and that has been approved by the Freehold Soil Conservation District.

STORAGE SHED — A detached, one-story accessory structure utilized for the purpose of storing household items and belongings, but not for the storage of automobiles.

STORMWATER DETENTION/RETENTION — Any storm drainage technique that retards or detains runoff, to reduce the peak rate or total volume of runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it. If there be no floor above it then the space between any floor and the ceiling next above. This includes basements if the basement ceiling is greater than five feet above the average adjoining grade.

STORY, HALF — A story under a sloping roof, which may have dormers with windows, having a floor area not exceeding 50% of the floor area below it, inclusive of any balconies on said story. The roof rafters shall intersect the exterior wall within one foot of the floor of said half story. See also "half-story."

STREET — Any road, avenue, street, or highway dedicated to the public use for street purpose. A "street" shall be deemed to include all portions lying between the dedicated or established right-of-way and/or planting easement thereof, said lines being identical with the front property lines of lands abutting the street.

STREET, COLLECTOR — A street that collects traffic from local streets and connects with minor and major arterials.

STREET, CUL-DE-SAC — A street with a single common ingress and egress and with a turnaround as the end.

STREET, LOCAL — A street that provides frontage for access to abutting lots and carries slow-speed traffic primarily having a destination or origin on the street itself.

STREET, LOOP — A local street that has its only ingress and egress at two points on the same collector or sub-collector street

STREET, MAJOR ARTERIAL — A street that connects and distributes traffic to and from minor arterials, with access control, channelized intersections, and restricted parking.

STREET, MINOR ARTERIAL — A street that interconnects and links major arterials and distributes traffic to and from collector streets.

STRUCTURE — A combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water, including but not limited to buildings, sheds, fences, walls, decks, signs, towers, swimming pools, and platforms for pool equipment, HVAC units, and generators.

SUBDIVISION — The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.

SUBDIVISION, MAJOR — Any subdivision not classified as a "minor subdivision."

SUBDIVISION, MINOR — A subdivision of land that results in the creation of three or fewer lots, and does not involve a planned development, any new street or the extension of any off-tract improvement.

SUBDIVISION COMMITTEE — A committee of at least three Land Use Board members appointed by the Chairman of the Board for the purpose of reviewing subdivisions in accordance with the provisions of this chapter and such duties relating to land subdivision which may be conferred on this Committee by the Board.

SWIMMING POOL, IN-GROUND — A swimming pool accessory to and constructed or installed on a property containing a one- or two-family dwelling for use by the residents or occupants of the dwelling or dwellings and their guests for which no fee is charged and which shall include but not be limited to in-ground pools, aboveground pools, including portable pools, exterior hot tubs and saunas and wading pools in excess of 25 square feet and 12 inches deep which are constructed of, but not limited to, wood, plastic, metal, fiberglass or concrete materials.

SWIMMING POOL, SEMIPUBLIC — A swimming pool accessory to and constructed or erected on a property containing a hotel, motel, bed-and-breakfast, townhouse or apartment complex as a benefit to and exclusively for residents or occupants of the hotel, motel, bed-and-breakfast, townhouse or apartment complex and their guests. Such shall include but not be limited to in-ground pools, aboveground pools, including portable pools, exterior hot tubs, saunas and wading pools in excess of 25 square feet and 12 inches deep.

TELEPHONE POLE (also UTILITY POLE) — A tall pole with electrical, telephone, cable wires attached to it, connecting several different buildings to the system for the primary use.

TEMPORARY PERMIT — Authorization for a land-use activity for a limited period of time.

TEMPORARY STRUCTURE — A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

TEMPORARY USE — A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

TRAILER — A structure, registered with the Department of Motor Vehicles, standing on wheels, towed or hauled by another vehicle, and used either for short-term human occupancy; carrying of material, goods, or objects; or as a temporary office.

TRASH ENCLOSURE — An accessory use or structure where trash and/or recycling material containers or any other type of waste or refuse containers are stored.

USE, NONCONFORMING — A use or activity which was lawful prior to the adoption, revision the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

VARIANCE — Permission to depart from the literal requirements of a zoning ordinance.

WINDOW LETTERING, PERMANENT — Includes, but is not limited to, etching, lettering or graphics displayed on a business window, which shall be limited to the name of the owner, business name, business address, telephone numbers (including facsimile and electronic mail), and hours of operation which shall be used to identify the nature of the business.

WINDOW LETTERING, TEMPORARY — Includes, but is not limited to, lettering, graphics, designs, seasonal designs, ornamental designs, drawings, sketches, logos, writing or any other form of design, letter or character, which shall be temporary in nature to advertise a sale, special civic or public events, seasonal activity or event, which the business is a participant, subject to the provisions as set forth in Article X of this chapter.

WIND SCREEN — A temporary open, screened entranceway leading into an establishment's front door on the ground level.

WINDOW SIGN, PERMANENT — Includes, but is not limited to, etching, lettering or graphics that is painted or mounted onto a windowpane, or that is hung directly inside a window solely for the purpose or effect of identifying any premises from the sidewalk or street. Limited to name of the owner, business name, business address, telephone numbers (including facsimile and electronic mail) and hours of operation which shall be used to identify the nature of the business.

WINDOW SIGN, TEMPORARY — Includes, but is not limited to, lettering, graphics, designs, seasonal designs, ornamental designs, drawings, sketches, logos, writing or any other form of design, letter or character, that is painted or mounted onto a window pane, or that is hung directly inside a window which shall be temporary in nature to advertise sales, events, services or products.

WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES —

- A. A structure containing, sending and receiving antennas, and prefabricated or modular structures or cabinets containing electronic equipment.
- B. A Federal Communication Commission (FCC) licensed facility, receiving, and relaying voice and data signals from various wireless communications devices and equipment.
- C. This does not include telephone poles/utility poles.

YARD, FRONT — An open unoccupied space, extending the full width of the lot and situated between the front property line and the front building line of the principal structure. The depth of the front yard shall be measured at right angles to the front property line of the lot. In the case of a corner lot, there shall be a front yard along all street frontages.

YARD, REAR — An open unoccupied space, extending the full width of the lot and situated between the rear lot line and the rear building line of the principal structure. The depth of the rear yard shall be measured at right angles to the rear property line. In the case of a corner lot, the rear yard shall always be opposite the front entrance to the primary structure on such corner lot.

YARD, SIDE — An open unoccupied space between the side property line of the lot and the side yard building line and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front or rear property lines as the case may be. The width of a side yard shall be measured at right angles to the side property line of the lot. .

ZONE — A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

ZONING — The delineation of districts and the establishment of regulations governing the use; placement; spacing; size of land; and buildings.

ZONING ENVELOPE — The three dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk.

ZONING OFFICER — The administrative officer designated to administer the zoning ordinance and issue zoning permits.

ZONING PERMIT — A document signed by the administrative officer which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building, and which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to Sections 47 and 57 of MLUL Act (40:55D-60; 40:55D-70).

ZONING SCHEDULE — See “Bulk Regulations” – “Attachment 1.”

ARTICLE III **ESTABLISHMENT OF ZONES**

§ 450-5 Zones enumerated.

For the purpose of implementing this chapter, the Borough is hereby divided into the following zones:

R-1	Residential Single-Family Zone
R-B	Residential Beachfront Zone
GB	General Business Zone
GBW	General Business West Zone
O-P	Office-Professional Zone
B-O-R	Business, Office and Research Zone

§ 450-6 Zoning Map.

The boundaries of all zones are as shown on the map entitled "Zone Map of the Borough of Bradley Beach, Monmouth County, New Jersey, prepared by Leon S. Avakian, Inc., Consulting Engineers, Neptune, N.J., July 2014."

§ 450-7 Interpretation of zone boundaries.

When any uncertainty exists with respect to the boundaries of any zone as shown on the Zoning Map, the following rules shall govern:

- A. Zone boundary lines are intended to follow the center line of streets and streams, lot or property lines, unless the boundary lines are fixed by dimensions shown on the Zoning Map or as hereinafter set forth.
- B. Where dimensions are indicated on the Zoning Map, they are to be measured from the street right-of-way line existing at the time of passage of this chapter.
- C. Where zone boundary lines are not fixed by dimensions and are so indicated that they appear to be within 10 feet of a lot line as determined by scale from the Zoning Map, such lot line shall be construed to be said boundary line.
- D. In those instances where zone boundary lines appear as extensions of property lines, and in other instances where the zone boundary line divides a lot, and where said boundary line appears to be more than 10 feet distant from a property line, the location of said boundary line shall be determined by the use of the scale shown on the Zoning Map.

- E. If, after applying the rules established herein, there still remains any uncertainty as to the zoning regulations applicable to any lot or portion thereof, the use of such land shall be governed by the regulations of the more restrictive of the two zones in question.

ARTICLE IV
GENERAL REGULATIONS APPLICABLE TO ALL ZONES

§ 450-8 Applicability of regulations.

No structure shall hereafter be erected, structurally altered or moved, nor shall any lands or the buildings thereon be used for any purpose except in conformity with all regulations hereinafter established for the zone in which said land or structures are located; nor shall any open space or yard area established for the purpose of complying with the regulation of this chapter be reduced or encroached upon in any manner except as shall be specifically permitted in this chapter.

§ 450-9 Permitted uses in all zones.

The following uses are permitted in any zone in the Borough:

- A. Municipally owned facilities, including but not limited to municipal offices, police stations, fire stations, first aid buildings, libraries, schools and any other such similar facility that serves a public purpose or use.
- B. Public works buildings and yards.
- C. Public recreation facilities, including recreation buildings, beaches, parks, playgrounds and facilities accessory or ancillary to such recreation facilities, including but not limited to parking lots, boardwalks, plazas, gazebos, snack bars, rest room facilities, etc.
- D. Community residences and community shelters, subject to the requirements of the R-1 Residential Single-Family Zone.
- E. Family day-care homes, subject to the requirements of the R-1 Residential Single-Family Zone.
- F. Satellite antenna, subject to the requirements and limitations of § 450-24.
- G. Ground mounted equipment:
 - 1. In any non-residential zone, ground-mounted structures such as mechanical heating and ventilating equipment, air-conditioning units, transformer boxes, emergency generators, or any other structure may not be located in the front yard and must comply with accessory structure setback requirements in each zone. Ground-mounted equipment may only be placed in the side and rear yards and must be screened by an enclosure approved by the Zoning Officer or Borough Engineer.
 - 2. In any residential zone ground-mounted generators for emergency use when the municipal power grid is off-line are permitted to be used when installed and used in accordance with the following regulations:

3. Ground-mounted generators permitted in this section must be permanent and incidental to the residential use and meet the following technical requirements:
 - a. Ground-mounted generators must be located so as to minimize noise and visual impact on adjacent properties with use of appropriate sound attenuated enclosures, screening, and landscaping as approved by the Zoning Officer.
 - b. Ground-mounted generators may not be located in the front or side yard and may only be placed in the rear yard with a minimum setback of 15 feet from the rear property line and 5 feet from the side property lines.
 - c. Generator operating sound output may not exceed Chapter 310: Noise of the Borough Code as measured from the closest property line.
 - d. Ground-mounted generators may be operated only during power loss or for maintenance operation. Maintenance operation shall only occur between the hours of 11:00 a.m. to 1:00 p.m. Monday through Friday and in accordance with manufacturing specifications.
 - e. Ground-mounted generators must be in compliance with all federal, state, and local laws and regulations.
4. Prior to the installation and/or use of any ground-mounted generator, the property owner and/or operator thereof must obtain all required zoning and construction permits.
5. In any residential zone, air conditioning, HVAC, or other mechanical equipment shall conform to section 450-13G.
6. In townhouse, garden apartment, or multi-family residential areas, applications must be made to the Land Use Board by the property owner or homeowner's association for placement of any new mechanical devices, such as emergency generators.

§ 450-10 Prohibited uses in all zones.

- A. The following uses are not permitted in any zone in the Borough:
 - (1) Self-service gasoline stations, self-service automobile filling and cleaning stations and self-service public garages.
 - (2) Auto body repairs of any kind or nature and any auto body repair shops.
 - (3) Auto body painting of any kind, nature or description.
 - (4) Gas, gasoline and motor fuel stations of every kind and nature.

- (5) Automotive repairs or installation of any parts therefore or as to any installations of parts or repairs thereto; automotive shall include motor vehicles, motorcycles, motor bikes and all like vehicles of any kind or nature.
- (6) Home for the aged.
- (7) Children's home.
- (8) Training school; provided however that the foregoing shall not be deemed to prohibit dance studios or schools as to any types or styles of dance, nor shall the same prohibit other cultural or artistic schools or studios.
- (9) Hospital, convalescent home or any institutional projector program.
- (10) Pool parlor, billiard parlor, poolroom, billiard room.
- (11) New and used car lots except as permitted in § 450-11.
- (12) Cement plants or any such types of endeavors dealing with the mixing of minerals, chemicals or any similar types of endeavors.
- (13) Factories of any kind, nature or description whatsoever.
- (14) Establishments where any commercial painting endeavors are performed.
- (15) Commercial or semi commercial garages or parking lots.
- (16) Car wash or car washing whether automatic, manual, semiautomatic or otherwise.
- (17) Manufacturing, whether light or heavy or industrial of any kind or nature except as specified in § 450-31A(2).
- (18) New and used car lots and show rooms, that display for sale, motor vehicles, motorcycles, or motor bikes or any similar vehicle and any ancillary use normally found in conjunction therewith.
- (19) Plastics manufacturing or similar commercial endeavors.
- (20) Junkyards of any kind or nature or description.
- (21) Adult bookstores and establishments offering adult entertainment.
- (22) Storage warehouses of any kind or description.
- (23) Fuel oil distributors or gasoline distributors, or distributors of any inflammable materials, whether retail or wholesale.
- (24) Clothing manufacturing of any kind or nature.
- (25) Construction business in any phase or part thereof with the exception of an office use within a building.
- (26) Commercial storage of heavy equipment of any kind or nature.

- (27) Any commercial or industrial endeavor reasonably to be deemed a part of any of the foregoing.
- (28) Organization meeting places.
- (29) Fraternity or Sorority houses.
- (30) Clubhouses, civic clubs or any like use or uses.
- (31) Bail bonding companies and bail bondsmen.
- (32) Conversion of single-family uses to multiple-family uses.
- (33) Trailer parks or camps.
- (34) Any more than one amusement game device commonly known as a "pinball machine" or similar game, located as an accessory use.
- (35) Hotels, Motels, Boarding homes and rooming houses.
- (36) Tattoo establishments and body piercing establishments.
- (37) Check cashing establishments or check cashing services except as part of services offered by banks.
- (38) Any use of land or buildings or any activity not specifically permitted in a zone.
- (39) The operation of cannabis cultivators, cannabis distributors, cannabis manufacturers, cannabis wholesalers, cannabis retailers, medical cannabis alternative treatment centers, medical cannabis cultivators, medical cannabis dispensaries, and medical cannabis manufacturers.

§ 450-11 Used car sales at gasoline stations and on private residences.

While new and used car lots are expressly prohibited, the following exceptions are noted:

- A. Any gasoline station, within the Borough of Bradley Beach, may display for sale no more than two used motor vehicles; provided, however, that the premises shall not have any sign or signs on the premises advertising such sales nor setting forth any wording indicating the sale of used motor vehicles other than a single sign that may be affixed to the motor vehicle or motor vehicles being sold as heretofore limited, which sign on the motor vehicle shall be no more than 12 inches by 12 inches.
- B. Any property owner may display for sale, on the owner's private property, the property owner's private vehicle, or a motor vehicle owned by a member of the property owner's family; provided, however, that no sign of any kind shall be displayed on the property relative to the proposed sale, other than a single sign affixed to the vehicle which sign shall be no larger than 12 inches by 12 inches, but no such sign nor such vehicle shall be permitted in and upon the streets or highways within the boundaries of the Borough and as further limited by other Borough ordinances.

§ 450-12 Nonconforming uses, structures and lots.

The following provisions shall apply to valid nonconforming uses structures and lots at the time of adoption of this section:

- A. Any noncompliant use, structure, and/or lot, which is lawfully in existence prior to the effective date of these Land Development Ordinance revisions,⁶ shall be deemed nonconforming at the passage of this section, or any applicable amendment thereto, and may be continued as otherwise provided in this section.
- B. No existing use, structure or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered, unless it is changed to a conforming use or structure except as follows:
 - (1) Any nonconforming structure or use partially destroyed by fire or other natural calamity may be restored, reconstructed or used as before; provided, that neither the volume such use or structure nor the floor area shall exceed that which existed prior to such damage; and, provided further, that such restoration shall be in accordance with the following:
 - (a) It shall be completed within two years of such damage.
 - (b) Except for the previous nonconformance, it shall be in accordance with all other requirements of this chapter.
 - (2) Normal maintenance and repair of a structure containing a nonconforming use is permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use or structure and does not increase the intensity of use. Nothing in this section shall prevent the restoring to a safe or lawful condition any part of any structure declared unsafe by the Construction Official.
 - (3) A building containing a residential nonconforming use may be altered in any way to improve interior livability. No structural alterations shall be made which would increase the number of bedrooms or dwelling units.
- C. Nonconforming uses and structures are considered terminated and shall not be revived in any way except as a conforming use or structure in accordance with the following:
 - (1) A nonconforming use or structure abandoned in accordance with this section and accompanied by an intent on the part of the owner to abandon such use as evidenced by some act or failure to act which carries with it a sufficient implication that the owner neither claims nor retains any interest in the subject matter of the abandonment shall be considered a termination thereof. Such implication shall be rebuttably presumed by nonuse for any period of two or more years. Nonuse by successive owners shall be considered continuous nonuse.
 - (2) The change of a nonconforming use or structure to a more or entirely conforming use for any period of time shall be considered an abandonment of the previous nonconforming use, and a reversion to the previous nonconforming use shall not be permitted.

- (3) Abandonment of nonconforming use. A nonconforming use shall be deemed to be abandoned where there is an intention to abandon as well as an external act (or omission to act) by which such intention is carried into effect.
 - (a) It shall be prima facie evidence that a nonconforming use shall be deemed to be abandoned when there occurs a cessation of such use on the part of a tenant or owner for a continuous period of at least two years.
- D. A nonconforming structure may not be enlarged, extended, increased in height, width or depth, moved or relocated, modified in such a way so as to increase habitable or useable space, number of dwelling units or number of bedrooms, unless such structure is changed to a structure conforming to the requirements of this chapter, except that an existing one- to four-family dwelling may be rebuilt, enlarged, extended or added to provided:
 - (1) The enlargement, extension or addition conforms to all zone requirements.
 - (2) Any existing one- to four-family dwelling located in a residential zone destroyed by wind, fire, water incursion, exposure or other act of God or public enemy or other natural calamity may be rebuilt on the same footprint, but need not comply with minimum lot width, depth and area requirements where the existing condition is nonconforming.
- E. The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply for, in writing, the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the responsibility of affirmatively proving the preexisting nonconforming use or structure. Application pursuant hereto may be made to the Land Use Board Administrative Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Land Use Board.
- F. Existence and continuance. At the date of adoption of this chapter any lot, building or structure which has been and is still being used for a purpose which does not conform to the requirements of the particular zone where the lot, building or structure is situated and which use is lawful and properly licensed, if required, and is not prohibited by any other existing ordinance of the Borough or any statute of the State of New Jersey or the United States of America, the use may be continued, subject to other provisions contained in this section and any change of title or possession shall not affect the continuance of such existing use. The existing use may be continued as aforesaid, provided further however, that:
 - (1) No nonconforming lot shall be further reduced in size.
 - (2) No nonconforming building shall be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of nonconformance.
 - (3) No nonconforming use may be expanded.

- (4) No structural alterations shall be made in any building or structure containing a nonconforming use, to change such a building or structure to another or an additional nonconforming use.
 - (5) No building shall be constructed upon a conforming lot which lot contains a nonconforming building or use.
 - (6) Neither the volume or the floor area shall be greater than existed prior to the damage.
- G. *Undersized Lot Permitted Improvements.* In any residential zone, any existing lot on which a dwelling is located and: 1) which lot does not meet the minimum lot size, width, or depth, or 2) on which lot there is a structure which violates any bulk requirements, may make improvements (renovations to an existing structure or new construction) to said lot or structures thereon without any appeal for variance relief, provided that the proposed improvements do not create new or expand existing nonconformities or variances and provided that the neither the footprint, floor area, nor volume of the structure is greater than is existing or existed. This exception shall not be construed to apply to any lot on which there is any nonconforming use. Improvements under this section require the following:
- (1) the permitted building coverage is not exceeded;
 - (2) the permitted lot coverage is not exceeded;
 - (3) the accessory building and/or addition do not violate any other requirements of this chapter, such as, but not limited to, height, setback and parking; and
 - (4) the property owner has filed a zoning permit application with the Building Department which the zoning reviewer has determined meets the requirements in this chapter.

§ 450-13 Permitted yard encroachments.

No building or part thereof shall be erected within or project into any required yard area except in accordance with the following provisions:

- A. Porches.
- (1) Applicability. This subsection includes regulations for attached, accessory porches located on properties within the R-1 and R-B Zones used for permitted residential purposes.
 - (2) Setbacks; porch setbacks. For permitted residential structures a porch may extend eight feet into the required front yard setback area, provided the principal structure conforms to the front yard setback requirement or by submission of the appropriate setback averaging plan as reflected in § 450-26D. A wrap-around porch may exceed the width of the existing or proposed structure, as long as it is in compliance with side setback requirements for the principal structure.
 - (3) Height. No porch floor is allowed above the lowest first floor walking surface elevation and shall comply with the principal building setback requirements.

- (4) Enclosure. A porch shall not be enclosed, heated or air-conditioned and railings, if required, shall promote the flow of air and light. Lattice and moveable sunscreens are permitted on side yard elevations. Walls are prohibited.
- (5) Location. Porches are also permitted within the buildable envelope at the front, rear and sides of the structure.
- (6) Coverage. Porches are included in the building coverage.
- (7) Stairs. Exterior stairs to the porch from grade are allowed forward of the porch encroachment.

B. Upper porches.

- (1) Applicability. This subsection includes regulations for attached, accessory upper porches located on properties used for permitted residential purposes.
- (2) Setbacks. Upper porch, setbacks for permitted residential structures may extend eight feet into the required front yard setback area, provided the principal structure conforms to the front yard setback requirement or by submission of the appropriate setback averaging plan, as reflected in § 450-26D. Wrap-around upper porches on corner lots only may exceed the width of the existing or proposed structure, as long as it is in compliance with front yard setback requirements for the principal structures.
- (3) Height. No upper porch floor is allowed above the lowest second floor walking surface elevation.
- (4) Enclosure. An upper porch shall not be covered, enclosed, heated or air-conditioned and shall have railings that promote the flow of air and light. The installation of awning systems is prohibited. Walls are prohibited.
- (5) Location. Upper porches are permitted in the front yard of the dwelling only, above the footprint of the lower porch.
- (6) Coverage. Upper porches are included in the building coverage.
- (7) Stairs. Prohibited on upper porches.

C. Balconies.

- (1) Applicability. This subsection includes regulations for attached accessory balconies located on properties used for residential purposes.
- (2) Requirements. For residential structures, no balcony, inclusive of gutters, shall extend out more than two feet from the second or third story wall to which it is attached. Each single-family dwelling may have no more than two balconies. Each balcony cannot exceed 80 square feet. Each duplex dwelling may have one balcony per unit, not to exceed two balconies for the dwelling. Each balcony cannot exceed 80 square feet, and such balcony area shall be counted toward the maximum area of any half story.

- (3) Setbacks. The edges of the balcony shall have a railing and the structure shall project no more than two feet from the exterior wall of the building and no more than two feet into the front setback area, inclusive of gutters.
- (4) Height. No balcony floor is allowed above the lowest half-story walking surface elevation and shall comply with the principal building setback requirements.
- (5) Enclosure. A balcony shall not be enclosed, heated or air-conditioned. Half walls and/or railings are permitted. The installation of awning systems is prohibited.
- (6) Location. Balconies shall be permitted at the front(s) of the dwelling only.
- (7) Coverage. This area shall be included in the building coverage.
- (8) Stairs. Prohibited on balconies.

D. Deck, elevated.

- (1) Applicability. This subsection includes regulations for attached accessory decks located on properties within the R-1 and R-B Zones used for permitted residential purposes.
- (2) Setbacks. For residential dwellings, decks are not allowed to encroach into any principal dwelling's setback requirements and shall never be closer than five feet of any side yard property line, nor closer than 25 feet of any rear yard property line. No deck shall extend beyond the side building line.
- (3) Height. An elevated deck is permitted at or below the first floor walking surface elevation, not to exceed a maximum floor height of 48 inches above grade.
- (4) Enclosure. Elevated decks shall not be enclosed with sidewalls. Railings that promote the flow of air and light shall be installed.
- (5) Location. An elevated deck may be located in the rear yard area only.
- (6) Coverage. The elevated deck area shall be included in the impervious coverage.
- (7) Access. Access to the elevated deck can be from both the dwelling or external stairs that do not extend into any principal building setback.
- (8) Stairs. Will not be counted in impervious coverage and shall maintain a three-foot setback from all property lines.

E. Deck, on grade.

- (1) Applicability. This subsection includes regulations for attached decks located on properties within the R-1 and R-B Zones used for permitted residential purposes.
- (2) Setbacks. For residential dwellings, decks are not allowed to encroach into any principal dwelling's setback requirements and shall never be closer than five feet of any side yard property line, nor closer than five feet to any rear yard property line. No deck shall extend beyond the side building line.

- (3) Height. A deck on grade is permitted at or below the first floor walking surface elevation, not to exceed 12 inches above grade as measured at the perimeter.
- (4) Enclosure. Enclosures are prohibited. A pergola is permitted over a deck, on grade provided that a pergola does not exceed 10 feet in height or 120 square feet in area. A gazebo is permitted over a deck, on grade provided that the gazebo does not exceed 12 feet in height or 120 square feet.
- (5) Location. Decks may be located in the rear yard area only.
- (6) Coverage. The deck on grade area up to 5% of lot size is excluded from impervious coverage. Deck on grade area beyond 5% of lot size is included in impervious coverage. The area underneath a deck on grade must be pervious surface.
- (7) Access. Access to the deck on grade can be from both the dwelling or external stairs that do not extend into any principal building setback.
- (8) Stairs. Will not be counted in impervious coverage and shall maintain a three-foot setback from all property lines.

F. Patio.

- (1) Applicability. This subsection includes regulations for patios located on properties within the R-1 and R-B Zones used for permitted residential purposes.
- (2) Setbacks. For residential dwellings, patios are not allowed to encroach into any principal dwelling's setback requirements and shall never be closer than five feet of any side yard property line, nor closer than five feet to any rear yard property line. No patio shall extend beyond the side building line.
- (3) Height. No patio is allowed above existing grade.
- (4) Enclosure. Patios shall not be covered or enclosed with sidewalls. A pergola is permitted over a patio provided that a pergola does not exceed 10 feet in height or 120 square feet in area. A gazebo is permitted over a patio provided that the gazebo does not exceed 12 feet in height or 120 square feet.
- (5) Location. Patios may be located in the rear yard area only.
- (6) Coverage. The patio area shall be included in the impervious coverage.

G. Air Conditioners, HVAC and other mechanicals shall not be permitted in the required area setbacks. See also Section 450-58H.

- (a) Exception – Replacement of existing HVAC and air conditioning units shall be permitted in its current location, in a space not to exceed the original footprint. Under no circumstances shall the HVAC and/or air conditioning units be located closer than 6 inches from the side and rear lot lines.

H. Deck, rooftop.

- (1) Applicability. This subsection includes regulations for attached accessory rooftop decks located on properties used for residential purposes.

(2) Prohibited. Rooftop decks are specifically prohibited.

I. Entry platform.

- (1) Applicability. This subsection includes regulations for attached accessory entry platforms located on properties used for residential and nonresidential purposes.
- (2) Setbacks. A side or rear entry platform, including steps, may extend into the rear and side yard setbacks as long as a three-foot setback is maintained. No entry platform associated with a multifamily residential use may extend into any required setback area.
- (3) Enclosure. Entry platforms shall not be enclosed, heated, or air-conditioned. Railings that promote the flow of air and light shall be installed.
- (4) Coverage. An entry platform will not be greater than four feet in depth. Entry platforms, excluding stairs, shall be included in the building coverage.
- (5) Location. Entry platforms shall be permitted in the front, rear and side of the dwelling.
- (6) Height. No entry platform floor is permitted above the lowest floor walking surface elevation.
- (7) Stairs. Side and rear entry platform stairs may extend into the rear and side yard setbacks as long as a three-foot setback is maintained.

J. Storage shed.

- (1) Applicability. This subsection includes regulations for detached accessory storage sheds located on properties used for residential and nonresidential purposes.
- (2) Requirements. There will be a limit of one storage shed per building lot that cannot exceed a maximum area of 100 square feet. A storage shed must have a pitched roof of at least three inches rise per 12 inches run.
- (3) Setbacks. Any storage shed shall be erected no closer than three feet from a side or rear property line.
- (4) Location. In no event shall any storage shed be erected or placed in the front of any other building. Storage sheds are prohibited in front and side yards.
- (5) Height. No shed shall exceed 10 feet in height. No shed shall exceed one story.
- (6) Coverage. Storage sheds shall not be counted in building or lot coverages, provided that the shed meets the size requirements of this section.
- (7) Stairs. Stairs are not permitted for storage sheds.
- (8) Heating or air conditioning. Heating and air conditioning are prohibited.
- (9) Review required. The Zoning Officer of the Borough of Bradley Beach shall approve the permit for any of the foregoing construction, erection, or placement before the same shall be performed.

- K. Other permitted yard encroachments. No building or part thereof shall be erected within or project into any required yard area except in accordance with the following provisions:
- (1) Ordinary projections. Ordinary projections of balconies, entry platform coverings, fireplaces, cornices, fly rafters, eaves, gutters, sills, bay windows, belt courses, chimneys, flues, buttresses and ornamental features may project not more than 24 inches from an exterior building wall into any required yard area, provided the projection does not violate the covenants of any deed or deeds to the property upon which the projection is made. Such projections shall not, however, be permitted along the Main Street frontage of any structure or for any permitted living quarters above an accessory garage.
 - (2) Fireplaces. Existing fireplaces may be replaced in their location as long as they do not encroach on neighboring property and are equal to or smaller in size compared to the original.
 - (3) Weather protection. Weather protecting and energy efficiency enhancing front door enclosures and wind screens are permitted in the GB, O-P, GBW and B- O- R Zones only subject to the following restrictions:
 - (a) May be used only from October 15 to May 1 (in each calendar year).
 - (b) The panels must be clear of such material for an individual to see through.
 - (c) The view must be maintained between a height of two feet from grade and seven feet high.
 - (d) Can project no more than four feet into a required front setback area and are no larger than 48 square feet in total area, provided the principal structure complies with the required front yard setback.
 - (e) Must maintain ADA compliance.
 - (f) Must be anchored to the ground in such a way as not to damage the Borough's sidewalk/pavers or create a tripping hazard when removed. (Any and all damages to sidewalk/pavers will be repaired at the owner's expense.)
 - (g) Violations and penalties provide for the maximum penalty that is included in Chapter 1, Article II, Penalties, of the Borough Code.
 - (4) Fire escapes. Fire escapes are permitted in multifamily dwellings only, subject to the following restrictions:
 - (a) Fire escapes are not permitted in the front yard.
 - (b) Fire escapes shall be no closer than three feet to the property line.
 - (c) Existing fire escapes may be replaced in their location as long as they do not encroach on neighboring property and are equal to, or smaller than, the original size.

§ 450-14 Permitted height exceptions.

- A. The height limitations of this chapter shall not apply to church spires, belfries, domes, antennas attached to buildings, none of which are to be used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads and the necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall not exceed in coverage 20% of the total building area and shall not exceed a height necessary to accomplish the purpose that they are intended to serve.
- B. Freestanding accessories. Water towers, noncommercial radio and television antennas which are erected as freestanding accessories and which might normally exceed the height limitations established by this chapter may be erected to a height that can be demonstrated to the satisfaction of the Land Use Board as being necessary to accomplish their intended function, except that, in residential zones and on properties adjacent to residential zones, no such structure may be located nearer to any property line than a distance equal to its height above ground.

§ 450-15 One principal building per lot.

Except as might be hereinafter specifically provided, there shall not be more than one principal building erected on any lot.

§ 450-16 Frontage on an improved public street.

No principal building shall be erected upon a lot which does not have the minimum required frontage upon an improved public street as defined in § 450-32 hereof.

§ 450-17 Front yards.

- A. Any yard facing upon a public street shall be considered a front yard and shall conform to the minimum front yard requirements established for the zone in which the yard is located.
- B. No accessory structures, with the exception of flag poles, light or sign posts, walks, driveways, patios at ground level, fences, and mailboxes shall be erected within any front yard.
- C. No front yard shall be used for the storage of boats, trailers, equipment, or vehicles other than automobiles which are registered and in operating condition and which are parked on an improved driveway or parking area, except as might be specifically permitted elsewhere in this chapter. However, properties facing the lake on Lake Terrace may park vehicles other than automobiles on an improved driveway or parking area in the front yard.

§ 450-18 Sight triangles at intersections.

- A. On any corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to obstruct view between a height of 3 feet and 10 feet above the centerline of grades of the intersecting streets. The sight triangle is the triangular area outside the street right-of-way. Its triangular shape is formed by the two intersecting street right-of-way lines and a third line running diagonally across the corner. Where streets and driveways intersect a state or county road, the sight triangle shall conform to state or county requirements. At all other street and driveway locations, except for residential driveways, the length of the side of the triangle along the curblineline of the intersecting street, shall be 25 feet.
- B. Sight triangles shall be required at each corner of street intersections and at intersections of streets and driveways serving commercial and multifamily housing developments. The area within sight triangles shall be either dedicated as part of the street right-of-way or kept as part of the lot and identified as a sight triangle easement. No planting or structure shall be erected or maintained more than 3 feet above the center-line grade of the intersecting street or driveway or lower than 10 feet above their center lines, excluding street name signs and official traffic regulations signs. Where any intersection involves vegetation, including trees, the developer shall trim or selectively thin trees to provide the sight triangle.
- C. All types of fences, walls, and hedges shall have a maximum height of 3 feet located within a triangle which has legs 10 feet long, measured along a street line and a driveway edge from the intersection of any driveway with a street.

§ 450-19 No accessory structure prior to principal structure.

No accessory structure, excluding fences and temporary buildings necessary for construction purposes, is to be erected prior to the completion of the principal building.

- A. Such temporary construction buildings may be erected only after the issuance of a building permit for the principal building and shall be removed within 30 days of the issuance of a certificate of occupancy for the principal building; or in the case of a major subdivision, within 30 days of cessation of the issuance of a certificate of occupancy for the final home in the subdivision.
- B. Existing permanent accessory structures (e.g. Garage apartments) may be used as before if the principal building is destroyed or removed; provided, that neither the volume such use or structure nor the floor area shall exceed that which existed previously. A temporary certificate of occupancy can be issued for a period of no more than two years if all other conditions are met.
- C. New construction permanent accessory structures may be erected before, during or subsequent to erection of the principal building. Certificate of occupancy for the accessory structure is only available at the time of, or subsequent to, issuance of the certificate of occupancy for the principal building.

§ 450-20 Preservation of natural features.

Existing natural features such as lakes, ponds and the natural configuration of the ground shall be retained where possible. If it can be demonstrated to the satisfaction of the Land Use Board that such features will substantially interfere with a permitted use of a property, such features may be altered only to the extent absolutely necessary to render premises suitable for such permitted use.

§ 450-21 Removal of trees.

- A. It shall be unlawful for any person, firm or corporation to remove or injure or otherwise destroy any live tree, in any zone, or to cause or permit the same to be done by any third-party contractor or subcontractor, without first complying with Chapter 425 of this Code.
- B. Prior to taking any action on a request for any approval that requires removal of any tree regulated by Chapter 425 of this Code, the Land Use Board shall require the applicant to comply with Chapter 425 of this Code as a condition of approval.
- C. No zoning permit or building permit shall be issued by the Zoning Official or Construction Official until the applicant has demonstrated compliance with Chapter 425 of this Code for any proposed tree removal(s).
- D. Any tree removal from private property must comply with Chapter 425 of this Code.

§ 450-22 Docks and bulkheads.

No dock, pier or bulkhead fill or other structure shall be erected or placed within or abutting any tidal water without first securing proper riparian grants and construction permits from the state and federal agencies having control over such construction, and any use thereof shall comply to the requirements of this chapter.

§ 450-23 Kitchen and sleeping facilities; basements.

- A. A kitchen facility shall not be allowed in a basement or cellar in any building. Basements or cellars shall be allowed for use as a toilet or bathroom, a laundry or playroom, or a furnace or heating rooms or storage room or a workshop. Erection, alteration or use for a kitchen shall be deemed any kitchen facilities, and it is prohibited to install therein any stove, or stoves, oven or ovens, any cooking or baking facilities of any kind or nature, including the prohibition of cooking plates or cooking or baking instruments of any kind, and the connection for use of any such kitchen facilities, as aforesaid, shall be deemed a violation of this chapter.
- B. No sinks shall be installed or connected in any room or rooms, as prohibited in the preceded paragraphs, other than for use for laundry purposes or bathroom and washing purposes.

- C. All kitchen facilities as enumerated in the preceding paragraphs are also prohibited and forbidden in any room or rooms located in structures of the Borough which room or rooms are located above the first floor of a structure which floor is sometimes referred to as the ground floor or grade level floor; excepting, however, that kitchen facilities shall be allowed in any room located above the first floor of a structure if the structure is a single-family dwelling and the kitchen facilities located above the ground floor are the only kitchen facilities within the structure; except, however, that this prohibition shall not apply to those zones or properties wherein the same may be permitted, as set forth in the preceding paragraphs herein. The prohibiting definitions as set forth in the preceding paragraph which apply as to the within paragraph with like force and effect.
- D. Sleeping facilities shall not be allowed in a basement or cellar in any building.

§ 450-24 Satellite antennas.

- A. The installation and use of a satellite antenna shall be permitted in all zones, subject to the limitations imposed by this chapter and in accordance with the terms and specifications herein set forth. Whereas the necessity for certain use of a satellite antenna is recognized and at the same time appreciating the fact that they or any one of them may be, or become, inimical to the public health, safety and general welfare of the community, if located without due consideration to the existing conditions and surroundings, the following standards and procedures are hereby established.
- B. Building-mounted antenna not exceeding 24 inches in diameter shall not require site plan approval, provided they do not encroach in any required yard or exceed permitted building height requirements. Applicants for a permit for a satellite antenna exceeding 24 inches in diameter shall submit a site plan application to the Land Use Board of Bradley Beach. Said site plan shall be drawn in accordance with the site plan requirements of Chapter 270, Land Development, of the Borough of Bradley Beach and in conformance with the conditions set forth below respective to use.
- C. All satellite antenna installations exceeding 24 inches in diameter are subject to the following requirements and standards:
 - (1) The antenna surface area in square feet shall be no more than 12. The equivalent diameter of the cable dish in feet shall be no more than four, and the maximum antenna height in feet shall be no more than eight.
 - (2) The dish shall be erected on a secure ground-mounted foundation.
 - (3) If the dish or satellite antenna is to be installed on a multiple-family dwelling, the antenna may be installed on the roof of said building in an inconspicuous location so as to minimizes noise and visual impact on adjacent properties.
 - (4) The antenna shall be located in the rear and not violate any yard and setback requirement of the main building.
 - (5) The antenna shall be located and screened to minimize motor noise and visual impact from the street and adjacent properties. The ability to install the antenna in an unobstructive location and to minimize noise and visual impact on adjacent property and from the street shall be a major factor in determining whether or not the sit plan is approved.

- (6) The antenna shall be designed for use by residents of the main building only.
- (7) Power control and signal cables for the satellite antenna to the served structure shall be buried in accordance with the appropriate code.

§ 450-25 Applicability to municipal uses on Borough property.

No provisions of this chapter or any amendment to this chapter shall apply to permitted municipal uses on municipal owned lands and premises, nor to any structures thereon, or hereafter erected thereon, nor to any uses or structures accessory or ancillary to such permitted use.

ARTICLE V
ZONE REGULATIONS

§ 450-26 R-1 Residential Single-Family Zone.

- A. Permitted principal uses.
 - (1) Single-family dwellings.
 - (2) Public parks and playgrounds.
 - (3) Municipal buildings and other public facilities providing services essential to the operation of the Borough subject to general review and recommendation by the Land Use Board.
- B. Permitted accessory uses.
 - (1) Garage apartments in accordance with the following:
 - (a) On minimum lot size of 7,500 square feet.
 - (b) Maximum garage floor area (first floor): 800 square feet (including staircase).
 - (c) Maximum apartment floor area (second floor): 800 square feet (including staircase).
 - (d) Maximum of one bedroom.
 - (e) Garage and common area only on the ground floor.
 - (f) Living accommodations on the second floor only.
 - (g) Maximum building (peak) height of accessory two story garage apartment: 25 feet.
 - (h) Maximum eave height of garage: 12 feet.
 - (i) Minimum number of internal parking spaces: two spaces.
 - (j) Second floor porches or balconies are not permitted.

- (k) Exterior staircases are not permitted.
- (2) (l) Garage apartments are permitted in the rear yard of corner lots. Garages with a single story and floor area not to exceed 800 square feet and a maximum building height (peak) of 15 feet.
- (3) A maximum of one storage shed or similar storage building not exceeding 100square feet in building area and 10 feet in height.
- (4) A private swimming pool, subject to the requirements and limitations of Chapter 406, Swimming Pools.
- (5) Fences, subject to the requirements and limitations of Chapter 201, Fences and Hedges, and Article IX, Fence, Landscaping and Buffer Regulations, of this chapter.
- (6) Signs, subject to the requirements and limitations of Article X, Signs and Awnings, of this chapter.
- (7) An outdoor barbecue structure with a maximum size of 30 square feet and a maximum height of 4 feet.
- (8) A shelter for domestic pets, provided that the building area does not exceed 30 square feet.
- (9) Home Office, subject to the following requirements:
 - (a) The use is limited solely to office use.
 - (b) The use is operated by full-time residents of the dwelling unit and no other persons.
 - (c) Nonresident employees, customers, or business invitees or guests shall not visit the dwelling unit for business purposes.
 - (d) The use shall be located in only one room of the dwelling unit or 200 square feet, whichever is smaller, and shall not be served by a separate entrance.
 - (e) Interior storage of materials within the 200 square feet shall be limited to office equipment and office supplies.
 - (f) There shall be no change to the exterior of the buildings or structure because of the use, and there shall be no outside appearance of a business use, including but not limited to, parking, storage, signs or lights.
 - (g) The use shall operate no equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference with telephone, radio or television reception, detectable by neighboring residents.
 - (h) The quantity and type of solid waste disposal is the same as the other residential uses in the zone district.

- (i) Delivery trucks shall be limited to U.S. Postal Service, Federal Express, United Parcel Service, Amazon, and other similar delivery services providing regular service from 8:00 a.m. to 7:00 p.m. to residential uses in the zone district.
 - (j) All vehicular traffic to and from the home office shall be limited in volume, type, and frequency to that normally associated with other residential uses in the zone district.
 - (k) There shall be only one home office permitted per dwelling unit.
 - (l) There shall be a one-time, nonrefundable application and inspection fee in the amount of \$150 to apply for a home office use. The person operating the home office shall register with the Borough on a form provided by the Borough.
 - (m) There shall be an annual fee of \$50 for subsequent yearly home inspections based on the home office use ordinance.
 - (n) There shall be an annual mercantile licensing fee to be set by the Borough.
 - (o) There shall be an annual tourism fee to be set by the Borough.
 - (p) Failure to comply with the requirements of this ordinance will result in a fine of between \$500, minimum, and \$1,250, maximum.
 - (q) Each day the violation remains unabated shall constitute a separate violation.
- (10) A pergola structure that shall not exceed 10 feet in height or 120 square feet in area.
- (11) A gazebo structure that shall not exceed 12 feet in height or 120 square feet in area.
- C. Conditional uses. The following uses may be permitted subject to the procedures outlined in Article VII, Conditional Uses, of this chapter, and the particular regulations pertaining to each use so cited:
- (1) Churches and places of worship subject to the regulations set forth in § 450-35.
 - (2) Public, private or parochial schools not operated for profit subject to the regulations set forth in § 450-35.
 - (3) Bed-and-breakfasts subject to the requirements of § 450-36.
- D. Area, yard and building requirements. The following standards are established hereafter and are further set forth in the Schedule of Height, Area and Yard Requirements of this chapter.
- (1) Area, yard and building limitations:
 - (a) Minimum lot area: 5,000 square feet.
 - (b) Minimum lot width: 50 feet.

- (c) Minimum lot depth: 100 feet.
- (d) Minimum front yard: 15 feet and 25 feet. The front yard depth shall be a minimum of 15 feet on north-south streets and 25 feet on east-west streets or the minimum depth of any front yard within the block and fronting on the same street on which the structure fronts. When the prevailing setback of the existing buildings along a block front is less than the setback requirements, the front yard setback distance may be reduced to the average of front yard setbacks of principal structures on all developed properties on the same side of the street within 200 feet of the property as documented by a map prepared by a licensed land surveyor. The average depth of the principal structure will be from the front wall of the structure, provided that such setback is not less than 10 feet, not including front porches. Front porches shall also be averaged separately from the principal structures they are attached to within 200 feet on each side of the lot and within the same block front. In all cases, if front yard averaging is to be used for a new structure or expansion of an existing structure, a plan must be submitted by a licensed land surveyor showing the front yard setbacks of each property on the same side of the street within 200 feet of the property. Averaging plans cannot be re-used.
- (e) Minimum side yards: five feet and 10 feet. For lots not meeting the minimum lot width requirement, side yard setbacks shall be 10% and 20% of the existing lot width, with a minimum of 4 feet.
- (f) Minimum rear yard: 25 feet.
- (g) Maximum building coverage: 35%.
- (h) Maximum impervious coverage: 60%.
- (i) Minimum off-street parking: two spaces per dwelling unit.
- (j) Minimum side yard (accessory structure): five feet.
- (k) Minimum rear yard (accessory structure): five feet.
- (l) Minimum distance from primary structure: 20 feet, except structures permitted on "Deck, on grade" or "Patio": five feet.
- (m) Maximum building area (accessory structure): 800 square feet.
- (n) Maximum building height (accessory structure, excluding sheds): 15 feet, single story; 25 feet, two stories.

E. Supplementary regulations.

- (1) Accessory uses permitted as per Subsection B(1), (2), (3), (4), (5), (7) and (8) are permitted only in the rear yard of lots and as further limited below:
 - (a) On all streets or avenues running in an easterly and westerly direction in the Borough, permitted accessory uses and associated structures listed in Subsection B(1), (2), (3), (4), (7) and (8) shall be erected or placed a minimum of 60 feet from the street line.

- (b) On all streets or avenues running in an northerly and southerly direction in the Borough, permitted accessory uses and associated structures listed in B(1), (2), (3), (4), (7) and (8) shall be erected or placed a minimum of 30 feet from the street line.
 - (c) A living quarters on the second story of an accessory two-car garage shall require two off-street parking spaces in addition to those required for the single-family dwelling.
- (2) The living space of single-family dwellings on lots 4,000 square feet or greater and at least 40 feet of frontage may be up to 2-1/2 stories or 35 feet in height, and the living space of single-family dwellings on lots that are either less than 4,000 square feet or less than 40 feet of frontage shall not exceed two stories and 27feet in height. See Section 450-12.G for permitted improvements on undersized lots in a residential zone.
 - (3) The half story of single-family dwellings shall not be divided into more than two finished rooms, not including hallways, bathrooms and closets.
 - (4) Sleeping quarters shall not be permitted in the basement or cellar of any dwelling without proper fire egress.
 - (5) Unnatural and/or structural alterations to the topography of a property to achieve a greater peak elevation of a structure shall not be permitted.

§ 450-27 (Reserved)

§ 450-28 R-B Residential Beachfront Zone.

The intent of this zone is to utilize in the best manner the land adjacent to Bradley Beach's most unique and valuable natural resource - the beach and ocean.

A. Permitted principal uses.

- (1) All uses permitted in the R-1 Residential Single-Family Zone, subject to the requirements and limitations of that zone.
- (2) Two-family dwellings, subject to the requirements and limitations applicable to single-family dwellings.

B. Permitted accessory uses.

- (1) For single-family dwellings:
 - (a) Same as those permitted in the R-1 Residential Single-Family Zone, subject to the requirements and limitations of that zone.
- (2) For two-family dwellings:
 - (a) Same as those permitted in the R-1 Residential Single-Family Zone, subject to the requirements and limitations of that zone, except that garage apartments shall not be permitted on lots containing two-family dwellings.

C. Conditional uses.

- (1) Same as § 450-26C (1) and (2).
- (2) Bed-and-breakfasts subject to the requirements of § 450-36.
- (3) Townhouses and garden apartments pursuant to § 450-37.1.

D. Area, yard and building requirements. The following standards are established hereafter and are further set forth in the Schedule of Height, Area and Yard Requirements of this chapter:

- (1) For single-family and two-family dwellings:
 - (a) Area, yard and building limitations: same as § 450-26D and as further set forth in the Schedule of Height, Area and Yard Requirements.

§ 450-29 GB General Business Zone.

In the General Business Zone, no premises shall be used and no structure shall be erected, altered, or occupied for any purpose except the following and shall be further limited to those uses which are clearly of a scale and nature designed primarily to serve adjacent residential areas within a three-mile radius and which only incidentally serve other areas.

A. Permitted principal uses.

- (1) Retail business establishments, including but not limited to the following:
 - (a) Stores selling groceries, meats and poultry, baked goods, and other such items.
 - (b) Drug and pharmaceutical stores.
 - (c) Hardware, dry goods, and household supply stores.
 - (d) Liquor stores.
 - (e) Stationery, tobacco and newspaper stores.
 - (f) Luncheonettes, delicatessens and confectionery stores.
 - (g) Haberdashery, apparel and shoe stores.
 - (h) Restaurants, diners and other eating and drinking establishments.
- (2) Personal service establishments, which shall include, but are not limited to, the following:
 - (a) Barber- and beauty shops.
 - (b) Shoe repair shops.
 - (c) Tailor shops, dry-cleaning shops and self-service laundries.

- (3) Business and professional offices, banks and fiduciary institutions, and post offices.
- (4) Office buildings.
- (5) Public parks and playgrounds.
- (6) Municipal buildings and other public facilities providing services essential to the operation of the Borough, subject to the general review and recommendation by the Land Use Board.
- (7) Residential on the second and third floors in combination with permitted retail business or personal service establishments on the first floor.
- (8) Child-care centers.

B. Permitted accessory uses.

- (1) Storage buildings and garages subject to requirements in the Schedule of Height, Area and Yard Requirements.
- (2) Signs and awnings, subject to the requirements and limitations of Article X, Signs and Awnings.
- (3) Parking lots and parking garages, limited to grade or first floor only. Parking garages should have retail space in front and should have architecturally false facades and require access from side streets where possible.
- (4) Trash storage and recycling enclosures.

C. Conditional uses.

- (1) Churches, lodges and similar quasi-public uses subject to the requirements and limitations in § 450-35.
- (2) Telecommunications towers and antennas, subject to the requirements and limitations of § 450-37 and Article XI, Telecommunications Towers and Antennas.
- (3) Townhouses subject to the requirements and limitations of § 450-27D(2).

D. Area, yard and building requirements. The following standards are established hereafter and are further set forth in the Schedule of Height, Area and Yard Requirements of this Chapter.

- (1) Area, yard and building limitations:
 - (a) Minimum lot area: 5,000 square feet.
 - (b) Minimum lot width: 50 feet.
 - (c) Minimum lot depth: 100 feet.
 - (d) Minimum front yard: none.
 - (e) Minimum side yards: none.

- (f) Minimum rear yard: 10 feet.
- (g) Maximum building height: 40 feet (three stories).
- (h) Maximum building coverage: 90%.
- (i) Maximum impervious coverage: 100%.
- (j) Minimum off-street parking: per § 450-39.
- (k) Minimum side yard (accessory structure): five feet.
- (l) Minimum rear yard (accessory structure): five feet.
- (m) Maximum building area (accessory structure): 120 square feet.
- (n) Maximum building height (accessory structure): 16 feet (one story).

E. Supplementary regulations.

- (1) Nothing shall be stored out-of-doors for any purpose except that garbage and trash or any other refuse awaiting disposal may be stored in a rear yard in a completely enclosed container.
- (2) Persons establishing uses in this zone are encouraged to give particular attention to aesthetic considerations, especially in connection with structural design and the use of landscaping to soften building lines.

§ 450-29.1 GBW General Business West Zone.

In the General Business West Zone, no premises shall be used and no structure shall be erected, altered, or occupied for any purpose except the following and shall be further limited to those uses which are clearly of a scale and nature designed primarily to serve adjacent residential areas within a three-mile radius and which only incidentally serve other areas.

A. Permitted principal uses.

- (1) Retail business establishments, including but not limited to the following:
 - (a) Permitted on the first floor only:
 - [1] Stores selling groceries, meats and poultry, baked goods, and other such items.
 - [2] Drug and pharmaceutical stores.
 - [3] Hardware, dry goods, and household supply stores.
 - [4] Liquor stores.
 - [5] Luncheonettes, delicatessens and confectionery stores.
 - (b) Permitted on the first and second floor only:
 - [1] Stationery, tobacco and newspaper stores.

[2] Haberdashery, apparel and shoe stores.

[3] Restaurants, diners and other eating and drinking establishments.

- (2) Personal service establishments, which shall include, but are not limited to, the following are permitted on the first and second floors only:
 - (a) Barber- and beauty shops.
 - (b) Shoe repair shops.
 - (c) Tailor shops, dry-cleaning shops and self-service laundries.
- (3) Business and professional offices, banks and fiduciary institutions, and post offices are permitted on the first and second floors only.
- (4) Office buildings are permitted on the first and second floors only.
- (5) Public parks and playgrounds are permitted on the ground floor only.
- (6) Municipal buildings and other public facilities providing services essential to the operation of the Borough, subject to the general review and recommendation by the Land Use Board, are permitted on the first and second floors only.
- (7) Child-care centers are permitted on the first and second floors only.
- (8) Residential on the second, third and fourth floors in combination with permitted retail business or personal service establishments on the first floor.

B. Permitted accessory uses.

- (1) Storage buildings and garages subject to requirements in the Schedule of Height, Area and Yard Requirements.
- (2) Signs and awnings, subject to the requirements and limitations of Article X, Signs and Awnings.
- (3) Parking lots and parking garages, limited to grade or first floor only. Parking garages should have retail space in front and should have architecturally false facades and require access from side streets where possible.
- (4) Trash storage and recycling enclosures.

C. Conditional uses.

- (1) Churches, lodges and similar quasi-public uses subject to the requirements and limitations in § 450-35.
- (2) Telecommunications towers and antennas, subject to the requirements and limitations of § 450-37 and Article XI, Telecommunications Towers and Antennas.
- (3) Townhouses subject to the requirements and limitations of § 450-27D(2).
- (4) Single family homes with frontage on the East-West streets applying the R-1 Zoning standards.

D. Area, yard and building requirements. The following standards are established hereafter and are further set forth in the Schedule of Height, Area and Yard Requirements of this Chapter.

(1) Area, yard and building limitations:

- (a) Minimum lot area: 5,000 square feet.
- (b) Minimum lot width: 50 feet.
- (c) Minimum lot depth: 100 feet.
- (d) Minimum front yard: none.
- (e) Minimum side yards: none.
- (f) Minimum rear yard: 10 feet.
- (g) Maximum building height: 48 feet (four stories).
- (h) Maximum building coverage: 90%.
- (i) Maximum impervious coverage: 100%.
- (j) Minimum off-street parking: per § 450-39.
- (k) Minimum side yard (accessory structure): five feet.
- (l) Minimum rear yard (accessory structure): five feet.
- (m) Maximum building area (accessory structure): 120 square feet.
- (n) Maximum building height (accessory structure): 16 feet (one story).

E. Supplementary regulations.

- (1) Nothing shall be stored out-of-doors for any purpose except that garbage and trash or any other refuse awaiting disposal may be stored in a rear yard in a completely enclosed container.
- (2) Persons establishing uses in this zone are encouraged to give particular attention to aesthetic considerations, especially in connection with structural design and the use of landscaping to soften building lines.

§ 450-30 O-P Office Professional Zone.

A. Permitted principal uses.

- (1) Professional and business offices, including offices for doctors, dentists, lawyers, architects, engineers, accountants, real estate and similar businesses or office activities employing a predominantly white-collar clerical staff, not engaged in retail or wholesale sales on the premises of any articles or products of a tangible nature and where no heavy or noisy machinery, equipment or instruments are utilized in the operation of the business.

- (2) Apartments on the second and third floors in combination with permitted professional or business offices on the first floor.
- (3) Public parks and playgrounds.
- (4) Municipal buildings and other public facilities providing services essential to the operation of the Borough, subject to the general review and recommendation of the Land Use Board.
- (5) Child-care centers.
- (6) Personal service establishments, which shall include, but are not limited to, the following:
 - (a) Barber and beauty shops.
 - (b) Shoe repair shops.
 - (c) Tailor shops, dry-cleaning shops and self-service laundries.

B. Permitted accessory uses.

- (1) Storage buildings and garages subject to the requirements in the Schedule of Height, Area and Yard Requirements.
- (2) Signs and awnings, subject to the requirements and limitations of Article X, Signs and Awnings.
- (3) Parking lots and parking garages.
- (4) Trash storage and recycling enclosures.

C. Conditional uses.

- (1) None.

D. Area, yard and building requirements. The following standards are established hereafter and are further set forth in the Schedule of Height, Area and Yard Requirements of this chapter:

- (1) Minimum lot area: 5,000 square feet.
- (2) Minimum lot width: 50 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Minimum front yard: none.
- (5) Minimum side yards: none.
- (6) Minimum rear yard: 10 feet.
- (7) Maximum building height: three stories, 36 feet.
- (8) Maximum building coverage: 90%.
- (9) Maximum impervious coverage: 100%.
- (10) Minimum off-street parking: per § 450-39.

- (11) Minimum side yard (accessory structure): five feet.
- (12) Minimum rear yard (accessory structure): five feet.
- (13) Maximum building area (accessory structure): 20 square feet.
- (14) Maximum building height (accessory structure): 12 feet (one story).

§ 450-31 B-O-R Business, Office and Research Zone.

A. Permitted uses.

- (1) All uses permitted in the GB General Business Zone and as further specified in § 450-29A.
- (2) The manufacturing of products, provided that the process includes only the assembly of previously prepared or refined materials. No process shall include chemical reaction; the use of heat other than soldering or welding; any machinery, the operation of which will generate noise or vibration audible or otherwise perceptible at or beyond the property line on which the machinery is located.
- (3) Research laboratories.
- (4) Public parks and playgrounds.
- (5) Municipal buildings and other public facilities providing services essential to the operation of the Borough, subject to general review and recommendation by the Land Use Board.

B. Permitted accessory uses.

- (1) None.

C. Conditional uses.

- (1) None.

D. Area, yard and building requirements. The following standards are established hereafter and are further set forth in the Schedule of Height, Area and Yard Requirements of this chapter:

- (1) Commercial uses permitted as per § 450-31A(1), as specified in § 450-29D of this chapter for GB General Business Zone.
- (2) All other uses permitted in the zone.
 - (a) Minimum lot area: 20,000 square feet.
 - (b) Minimum lot width: 100 feet.
 - (c) Minimum lot depth: 100 feet.

- (d) Minimum front yard: 10 feet.
- (e) Minimum side yards: 10 feet.
- (f) Minimum rear yard: 10 feet and 14 feet.
- (g) Maximum building height: three stories, 36 feet.
- (h) Maximum building coverage: 50%.
- (i) Maximum impervious coverage: 80%.
- (j) Minimum off-street parking: per § 450-39.
- (k) Minimum side yard (accessory structure): five feet.
- (l) Minimum rear yard (accessory structure): five feet.
- (m) Maximum building area (accessory structure): 120 square feet.
- (n) Maximum building height (accessory structure): 12 feet (one story).

E. Supplementary regulations.

- (1) There shall be no out-of-doors storage or display except that garbage and trash awaiting collection may be stored in rear yard areas in a completely enclosed container.
- (2) Where the office-research zone abuts a residential area, a minimum thirty-foot buffer must be established.

ARTICLE VI

SCHEDULE OF HEIGHT, AREA AND YARD REQUIREMENTS

§ 450-32 Minimum standards.

The standards in the Schedule of Height, Area and Yard Requirements are the minimum standards for building height, bulk, coverage and site location. The Schedule of Height, Area and Yard Requirements summarizes criteria cited elsewhere in this chapter or, where no criteria are cited, establishes required criteria.

§ 450-33 Supplement to Schedule of Height, Area and Yard Requirements.

- A. Building line. The building line shall be established at the minimum front yard depth as specified elsewhere in this chapter except as specifically mentioned below or elsewhere in this chapter:
 - (1) The building line on Main Street on both sides thereof throughout the entire length of the Borough shall be a minimum of 12 feet from the curbline.

- (2) The building line for any lots facing on Bradley Boulevard between the eastern line of Main Street to and including Block 87, Lot 10, as shown on the Official Tax Maps of the Borough of Bradley Beach, shall be a minimum of 35 feet from the front lot line. The building line between a point at the southwesterly corner of Block 87, Lot 9 and Ocean Avenue, shall be a minimum of 25 feet from the front lot line.
- (3) The building line on all streets in the GB General Business Zone, excluding Main Street as noted above, shall be the presently existing property lines of the premises located in and upon said streets.

ARTICLE VII **CONDITIONAL USES**

§ 450-34. Purpose; site plan required.

- A. Conditional uses to the use limitations imposed by this chapter are permitted under the terms and specifications herein set forth. Whereas, the necessity for certain specific uses is recognized and at the same time appreciating the fact that they or any one of them may be, or become, inimical to the public health, safety and general welfare of the community, if located without due consideration to the existing conditions and surroundings, the following standards and procedures are hereby established.
- B. An applicant for a conditional use permit shall submit a site plan to the Land Use Board of Bradley Beach. Said site plan shall be drawn in accordance with Chapter 270, Land Development, and in conformance with the conditions set forth below respective to each use.

§ 450-35 Churches, lodges and schools.

Churches, lodges and similar quasi-public uses and private and parochial schools are permitted as a conditional use in the R-1 Single-Family Residential Zone subject to review and special conditions set forth by the Land Use Board as each situation may warrant.

§ 450-36 Bed-and-breakfast facilities.

Bed-and-breakfasts are permitted as a conditional use in the R-B Residential Beachfront Zone subject to Land Use Board conditional use and site plan approval, and subject to the minimum standards of that zone, and to the following requirements and conditions:

- A. Must be owner-occupied as principal residence.
- B. Bed-and-breakfast inns shall provide breakfast for registered guests in the forenoon of each day. No other meals may be served, and nonguests may not be served breakfast.
- C. No cooking facility or smoking shall be permitted in guestrooms.
- D. Individual guest occupancy shall be limited to 30 successive days or not more than 30 days in any period of 60 successive days.

- E. Common areas to be provided for exclusive use of the guests must be at least 300 square feet (parlors, dining rooms and the like). Non-Habitable spaces shall not be included as common areas for guests.
- F. Parking for one vehicle per guest room must be provided on-site.
- G. No more than 10 rooms nor less than two rooms for guests (with sleeping accommodations for no more than 25 persons) shall be permitted.
- H. Bed-and-breakfast inns shall be subject to state law as defined, regarding the Uniform Construction Code Act, Uniform Fire Safety Act, and shall be registered with the Bureau of Housing Inspection in the Division of Housing and Development in the Department of Community Affairs and shall comply with all local ordinances concerning housing and with all of the requirements of the R-B Residential Beachfront Zone.
- I. Any signage for the bed-and-breakfast must be included with the application and approved by the Land Use Board.
- J. The conditional use application shall include a detailed proposal setting forth a floor plan, the number of rooms to be occupied, the manner of payment, the season of operation, and any ancillary activities to be conducted.
- K. Each bed-and-breakfast shall be inspected on an annual basis by the Fire Official in order to ensure compliance with this chapter and to ensure no changes have been made to the structure.

§ 450-37 Telecommunications towers and antennas.

Telecommunications towers and antennas are permitted as conditional uses in the GB General Business Zone west of Main Street, subject to conditional use and site plan approvals by the Land Use Board and further subject to the minimum standards of the GB General Business Zone and the requirements and conditions of Article XI, Telecommunications Towers and Antennas.

§ 450-37.1 Garden apartments and townhouses.

Garden apartments and townhouses are permitted as conditional uses within the R-B Zone subject to the following standards:

- A. Area, yard and building limitations:
 - (1) Minimum lot area: 30,000 square feet.
 - (2) Minimum lot width: 200 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum front yard: 15 feet and 25 feet. The front yard depth shall be a minimum of 15 feet on north-south streets and 25 feet on east-west streets, or the minimum depth of any front yard within the block and fronting on the same street on which the structure fronts, whichever is the greater.
 - (5) Minimum side yards: five feet and 10 feet.
 - (6) Minimum rear yard: 25 feet.

- (7) Maximum building, height: 27feet (2 stories).
- (8) Maximum building coverage: 20%.
- (9) Maximum impervious coverage: 60%.
- (10) Minimum off-street parking: two spaces per unit.
- B. Minimum gross floor area, per unit: 800 square feet.
- C. Maximum gross floor area per unit: 1,200 square feet.
- D. Maximum average gross floor area per unit: 1,000 square feet.
- E. Maximum percentage of units with more than one bedroom: 20%.
- F. Maximum number of units per structure: 12.
- G. Minimum total number of units: 12.
- H. Minimum distance between structures: 20 feet.
- I. Living space shall be limited to two stories, with no portion of any living space below grade.

ARTICLE VIII
OFF-STREET PARKING, DRIVEWAY, AND LOADING REQUIREMENTS

§ 450-38 General off-street parking requirements.

The following specific regulations apply to the installation, layout and design of surface and structured parking facilities in the Borough of Bradley Beach:

- A. At the time of construction, enlargement, alteration or increase of capacity, or change in the use of any building, structure or property in the Borough, there shall be provided, improved and usable off-street parking spaces in accordance with the requirements specified in this article.
- B. Additional off-street parking facilities shall not be required for any existing building or use unless such building is enlarged or expanded or the use of the building or a portion thereof is changed, in which case the provisions of this chapter shall apply only to the enlarged or changed portion of the building or use.
- C. Parking facilities may be located in any yard area in all zones, and said yard area must be on the subject parcel.
- D. No required off-street parking area shall be encroached upon by any buildings, open storage or any other uses other than the parking of motor vehicles.
- E. All off-street parking spaces and drives shall be graded, paved with a dust-free and durable all-weather pavement, and drained, all in a manner approved by the Borough Engineer in accordance with pavement and drainage standards established in Chapter 270, Land Development.

- F. No lawn area, buffer strip or other unpaved area shall be used for the parking of motor vehicles except on an emergency basis. If the minimum required parking areas do not prove sufficient to accommodate all vehicles parking on a property, such additional parking spaces shall be provided as to permit all vehicles to park on a paved area in accordance with the standards established in this article.

§ 450-39 Schedule of required off-street parking spaces.

Off-street parking spaces shall be provided for each use in accordance with the following schedule:

- A. Retail commercial and personal service: No parking required for 1,000 square feet or less floor area. One parking space for every 200 square feet (rounded up to nearest 200 square feet) of floor area, in excess of 1,000 square feet of total area, used for retail commercial or personal service purposes.
- B. Professional and general office: No parking required for 1,000 square feet or less floor area. One parking space for every 200 square feet (rounded up to nearest 200 square feet) of floor area, in excess of 1,000 square feet of total area, used for office purposes.
- C. Bars and restaurants:
 - (1) All zones except General Business Zone and General Business West Zone: one parking space for every three seats for patrons, plus one space for each employee during the maximum shift.
 - (2) General Business Zone and General Business West Zone: one parking space for each 100 square feet of floor area designated for commercial purposes.
 - (a) Parking for businesses on lots with frontage on the East and West sides of Main Street will be allowed on the first floor of buildings provided there is retail space in front of the parking area.
 - (b) Parking Structures should have architecturally false facades.
- D. Bed-and-breakfasts: one parking space per sleeping or dwelling unit, plus one space for each employee during the maximum shift.
- E. Residential: as specified in the Residential Site Improvement Standards or as indicated in this chapter, whichever is greater.
- F. Other: as determined and specified by the Land Use Board.

§ 450-40. Driveway requirements.

The following specific regulations apply to the installation of driveways accessing surface or structured parking facilities in the Borough of Bradley Beach:

- A. Prior to the installation of any driveway, a curb cut permit shall be obtained. A permit survey or diagram accurately depicting the proposed driveway shall be submitted to the Zoning Officer and shall clearly indicate the proposed location, width and length of driveway. Information sufficient to determine the type of materials to be used, as well as any markings or signage, shall also be submitted. The Zoning Officer shall provide

the applicant with a design detail for the construction of a concrete apron, as provided by the Borough Engineer, and the applicant shall construct such apron in accordance with the specifications thereon.

- B. Except as otherwise specified in this section, no driveway shall enter any public road, street or highway at a point closer than 50 feet from any street intersection, measured from the face of the curb of the intersecting street, to the center line of the proposed driveway.
- C. As currently existing, a driveway that provides common access to two adjoining properties shall be considered as a single driveway for the purpose of this section. Common driveways shall not be permitted within the Borough of Bradley Beach.

§ 450-41. Residential parking and driveway requirements.

- A. One- and two-family uses.
 - (1) Driveways and parking areas installed for one- and two-family dwellings shall be a minimum of eight feet in width inside the property lines and shall be located a minimum of one (1) foot from a side lot line.
 - (2) Curb cuts shall be a maximum of 12 feet in width. Driveway aprons shall be a maximum of 10 feet in width at the property line and 12 feet in width at the curbline. The portion of a sidewalk forming part of a driveway and the driveway apron shall be constructed of concrete, six inches thick, reinforced with six by six 10/10 WWM. Each lot shall have no more than one driveway and curb cut.
 - (3) Driveways and parking areas located in the front yard shall not exceed a width of 12 feet. Maximum driveway width of 24 feet is permitted in rear yard, only in front of a two-car garage. Driveway coverage area shall consist of impervious pavement to be used for off- street parking while still complying with the maximum impervious surface requirement.
 - (4) No driveway less than 20 feet in length shall be considered an off-street parking space as measured from the property line to the end of the driveway.
 - (5) Driveways on corner lots shall be installed on the side of the lot farthest from the intersection. On corner lots less than 50 feet in width, the driveway shall be installed on the side of the lot with the longest street frontage.
 - (6) Driveways and parking areas shall be improved with a dust-free durable, all-weather material, said material is deemed to include concrete, asphalt, brick or concrete pavers but shall exclude gravel, stone or other similar material. The area between the end of the driveway and the street, inclusive of the sidewalk, shall be concrete with a minimum depth of six inches reinforced with welded wire mesh, designed and constructed in accordance with details and specifications provided by the Borough Engineer. The surface of the apron shall be at the same elevation as the sidewalk sections, which are joined to each side so that the sidewalk continues uninterrupted where it crosses the driveway.

- (7) Driveways and parking areas shall be graded and installed to effect positive drainage to the gutter and/or away from the nearest property line and into the lawn area of the front, rear or side yards. No driveway or apron shall obstruct the flow of stormwater in the gutter or otherwise cause water to collect or pond.

B. Townhouse and apartment uses.

- (1) Driveways for townhouse and apartment residential uses shall be a minimum width of 12 feet in width for one-way circulation and 20 feet in width for two-way circulation, measured inside the property lines. A minimum setback of five feet shall be maintained between a driveway and the lot line of any adjoining property. The area between the edge of a driveway and the lot line shall be attractively landscaped with trees or shrubs.
- (2) Curb cuts shall be a maximum of 12 feet wide for one-way traffic and 26 feet wide for two-way traffic. The driveway apron shall be a maximum of 10 feet wide at the property line and 12 feet wide at the curblines for one-way traffic and a maximum of 24 feet wide at the property line and 26 feet wide at the curblines for two-way traffic. The portion of a sidewalk forming part of a driveway and the driveway apron shall be constructed of concrete, six inches thick, reinforced with six by six 10/10 WWM. Each lot shall have no more than one two-way driveway and curb cut or two one-way driveways and curb cuts. Continuous multiple driveway aprons shall be not be permitted.
- (3) No driveway aisle shall be used for parking on a property with a multifamily use.
- (4) Driveways and parking areas shall be improved with a dust-free durable, all-weather material, said material is deemed to include concrete, asphalt, brick or concrete pavers but shall exclude gravel, stone or other similar material. The area between the end of the driveway and the street, inclusive of the sidewalk, shall be concrete with a minimum depth of six inches reinforced with welded wire mesh, designed and constructed in accordance with details and specifications provided by the Borough Engineer. The surface of the apron shall be at the same elevation as the sidewalk sections, which are joined to each side so that the sidewalk continues uninterrupted where it crosses the driveway.
- (5) Driveways shall be graded and installed to effect positive drainage to the gutter, on-site subsurface drainage system and/or away from the nearest property line and into the lawn area of the front, rear or side yard. No driveway or apron shall obstruct the flow of stormwater in the gutter or otherwise cause water to collect or pond.
- (6) The surface of pavement in any parking area with a capacity of more than four vehicles shall be marked with solid white or yellow painted lines in such a manner as to indicate each individual parking stall and the direction of traffic flow in each access drive and aisle.
- (7) No ingress or egress drive shall enter upon a public road or highway at a point closer than 50 feet to any street intersection or closer than 30 feet to any property line. These distances shall be measured between the curblines or pavement edge of the driveway, at the street line, to the nearest curbline of the road or highway in question.

- (8) Aisles providing direct access to parking stalls shall have minimum widths as specified herein:
 - (a) For 61° parking up to and including 90° parking: 25 feet.
 - (b) For 46° parking to 61° parking: 18 feet.
- (9) All parking areas and related access drives shall be adequately illuminated during all hours between sunset and sunrise. All such illumination shall be adequately shielded in such a manner as to protect any adjacent residential properties from glare generated by said illumination.
- (10) No lawn area, buffer strip of other unpaved area shall be used for the parking of motor vehicles except on an emergency basis. If the minimum required parking areas do not prove sufficient to accommodate all vehicles parking on a property, such additional parking spaces shall be provided as to permit all vehicles to park on a paved area in accordance with the standards established in this section.
- (11) The minimum parking space size shall be nine feet wide by 18 feet deep, except that handicap accessible spaces shall comply with ADA standards and requirements.
- (12) Every parking lot for an apartment or townhouse use shall include at least one off-street van accessible space, in addition to the minimum total number of spaces required under § 450-39.

§ 450-42 Nonresidential parking and driveway requirements.

A. Commercial, professional and business uses.

- (1) Driveways for commercial, professional and business uses shall be a minimum width of 12 feet in width for one-way circulation and 20 feet in width for two-way circulation, measured inside the property lines. A minimum setback of five feet shall be maintained between a driveway and the lot line of any adjoining residential property. The area between the edge of a driveway and the lot line of any adjoining property shall be attractively landscaped with trees or shrubs.
- (2) Except where access is provided to an off-street parking or loading area, no driveway less than 20 feet in length shall be permitted as measured from the property line or public sidewalk to the end of the driveway.
- (3) Driveways and parking areas shall be improved with a dust-free durable, all-weather material, said material is deemed to include concrete, asphalt, brick or concrete pavers but shall exclude gravel, stone or other similar material. The area between the end of the driveway and the street, inclusive of the sidewalk, shall be concrete with a minimum depth of six inches reinforced with welded wire mesh, designed and constructed in accordance with details and specifications provided by the Borough Engineer. The surface of the apron shall be at the same elevation as the sidewalk sections, which are joined to each side so that the sidewalk continues uninterrupted where it crosses the driveway.
- (4) Driveways shall be graded and installed to effect positive drainage to the gutter, on-site subsurface drainage system and/or away from the nearest property line

and into the lawn area of the front, rear or side yard. No driveway or apron shall obstruct the flow of stormwater in the gutter or otherwise cause water to collect or pond.

- (5) The surface of pavement in any parking area with a capacity of more than four vehicles shall be marked with solid white or yellow painted lines in such a manner as to indicate each individual parking stall and the direction of traffic flow in each access drive and aisle.
- (6) No ingress or egress drive shall enter upon a public road or highway at a point closer than 50 feet to any street intersection or closer than 30 feet to any property line. These distances shall be measured between the curblineline or pavement edge of the driveway, at the street line, to the nearest curblineline of the road or highway in question
- (7) Aisles providing direct access to parking stalls shall have minimum widths as specified herein:
 - (a) For 61° parking up to and including 90° parking: 25 feet.
 - (b) For 46° parking to 61° parking: 18 feet.
- (8) All parking areas and related access drives shall be adequately illuminated during all hours between sunset and sunrise. All such illumination shall be adequately shielded in such a manner as to protect any residential properties from glare generated by said illumination.
- (9) No lawn area, buffer strip or other unpaved area shall be used for the parking of motor vehicles except on an emergency basis. If the minimum required parking areas do not prove sufficient to accommodate all vehicles parking on a property, such additional parking spaces shall be provided as to permit all vehicles to park on a paved area in accordance with the standards established in this section.
- (10) The minimum parking space size shall be nine feet wide by 18 feet deep, except that handicap accessible spaces shall comply with ADA standards and requirements.
- (11) Every parking lot for a nonresidential use shall include at least one off-street van accessible space, in the minimum total number of spaces required under § 450-39.

§ 450-43 Off-street loading requirements.

- A. Retail commercial or industrial uses shall provide and permanently maintain off-street loading and unloading space in accordance with the requirements of this section. These requirements do not apply to such activities as personal service establishments, professional offices, business offices and similar uses, provided that these activities and uses can demonstrate to the satisfaction of the Land Use Board that they do not normally send or receive any materials or supplies by means of large trucks or by tractor-trailer.

- B. Every use requiring off-street loading space shall provide such spaces at the side or rear of the principal building in accordance with the following schedule:

Floor Area (square feet)	Minimum Number of Off-Street Loading Spaces
0 to 10,000	1
10,001 to 25,000	2

- C. Each truck loading space shall measure at least 12 feet in width, 45 feet in length and shall have a vertical clearance of at least 14 feet in height.
- D. Required off-street loading spaces and access drives shall be paved, drained and located in accordance with requirements established in § 450-42A.
- E. Wherever possible, access to truck loading spaces should be separated from access to automobile parking areas, particularly for any uses which require large volumes of trucking traffic.

ARTICLE IX

OFF-STREET PARKING, DRIVEWAY, AND LOADING REQUIREMENTS

§ 450-44 Fence regulations.

- A. All fences may be erected, altered or reconstructed to a height not exceeding three feet above ground level when located in any front yard, four feet in any side yard between the front and rear building line and six feet in any rear yard. For purposes of this section only, an alleyway will not be considered a street.
- B. All fences must be erected entirely within the property line. No fence shall be erected within any public right-of-way.
- C. All fences shall be maintained in a safe, sound and upright condition.
- D. No fence shall be erected that is embedded with or made of pieces of glass, sharpened metal or sharp or otherwise hazardous material, nor shall any fence be erected which is intended to wound or injure persons or animals.
- E. Nothing in this section shall be applied as to restrict the construction of a retaining wall necessary to retain earth at the level which it existed at the time of the passage of this chapter.

§ 450-45 Landscaping, flag poles, and buffer regulations.

- A. Where any commercial or industrial property abuts a residential use or zone, a landscaped buffer strip at least 10 feet in width shall be permanently maintained along the property line abutting the residential zone.
- B. In any residential zone all parking areas, exclusive of the ingress and egress drive, having a capacity of more than four vehicles shall be screened from adjacent properties by a buffer strip of at least five feet in width.

- C. Buffer areas shall consist of lawn area and massed evergreen and deciduous trees and shrubs planted in such a manner that will provide a continuous visual screen throughout the entire year within a period of two full growing seasons following the planting of the buffer.
- D. Evergreen and deciduous shrubs shall have a minimum height of three feet when planted and shall be of varieties which normally grow to a minimum height of six feet within two full growing seasons.
- E. Required buffers may be used for no other purpose than as a buffer. The only structures that may be erected within a buffer area are fences as elsewhere regulated in this chapter. The height of shrubs planted in buffer areas shall be measured from the ground level around the base of the shrub to the top most part of the shrub, once the shrub has been properly planted in the ground. All non paved areas on properties used for any purpose other than farming shall be suitably landscaped with trees, shrubs, grass and other landscaping materials.
- F. Where an area required for a buffer is already wooded, it shall be left in its natural state, and the existing growth shall be supplemented with additional plant material where necessary to bring the buffer area up to the minimum requirements of this chapter.
- G. Flag poles may be installed on a lot and must meet the following requirements:
 - (1) Permitted in front yard only.
 - (2) No more than one flag pole may be installed on any lot.
 - (3) The Front and Side setbacks applicable to flag poles shall be a minimum of 10 feet. No flag pole may be installed or erected in any required buffer area
 - (4) The maximum height of flag poles is 30 feet.
 - (5) The maximum size of a flag shall be 5 feet x 8 feet.
 - (6) No advertising shall be displayed on any flag pole in residential zones.
 - (7) Flag pole illumination shall be prohibited, except pursuant to the U.S. Flag Code.
- H. Private irrigation shall be allowed within the grassed or landscaped strip in the Right-of-Way between the curb and sidewalk at the risk of the owner of the irrigation system. It shall be the owner's responsibility to maintain said irrigation at his/her own expense. The Borough shall have the right to perform regular maintenance within the Right-of-Way including excavation, utility repairs, road repairs, tree removal, snow removal, or any other work within the Right-of-Way that is in the Borough's interest to do so. Any damage to private irrigation systems due to work performed by the Borough shall be the owner's responsibility.

ARTICLE X
SIGNS AND AWNINGS

§ 450-46 General objectives.

It is the objective of this article to protect and promote the public health, safety and welfare by restricting signs and awnings that violate privacy or increase accidents by distracting attention or obstructing vision. It is also the intention of this article to promote a desirable visual environment and to encourage the replacement of nonconforming signs and awnings with conforming signs and awnings through enforcement.

§ 450-47 General standards.

The following general standards shall apply to all signs and awnings:

- A. All signs and awnings that are not specifically permitted by this chapter are prohibited.
- B. All signs and awnings shall conform to the provision of this article and also to the provisions of the applicable requirements of the New Jersey Uniform Construction Code.
- C. All signs and awnings unless stated otherwise in this article shall relate to the use and occupancy of the property on which the sign is located except for signs placed by the Borough of Bradley Beach.
- D. No advertising or sign shall be erected between or maintained upon any part of the lawn or space between the curblineline of the street upon which the property is situated and the main body of the house or structure, except in accordance with this article and provided that this article shall not be construed to prohibit the attachment of a sign to the porch or main body of the structure, subject to the provisions of this article, which shall not extend beyond four feet from the porch or building and said sign shall not exceed three feet in length and two feet in height, provided further that but one sign shall be erected on the front and not more than one sign on the side; provided further that on hotels of 40 bedrooms or more there may be erected a sign that shall not extend beyond four feet from the hotel building or structure and which sign shall not exceed three feet in width and 12 feet in height.
- E. No awning shall be erected or maintained on any building where said awning shall extend over the public sidewalk unless said awning shall be erected and maintained so that the lowest portion thereof shall be at least eight feet, six inches above the sidewalk.
- F. All signs and awnings shall be maintained in good condition and shall be repaired or replaced when their condition deteriorates.
- G. No sign with a flashing, strobe or beam light resembling an emergency light shall be erected in any location.
- H. No sign shall be located so as to impede or restrict the free flow of traffic or pedestrians.

§ 450-48. Application procedures; permit fees.

Unless specifically stated herein, the following application procedures shall apply to all signs in the Borough, and unless stated otherwise, all signs shall require a sign permit.

- A. The Zoning Officer shall be the person in the Borough to whom all permit applications are made.
- B. Prior to the erection of any sign or awning, a permit must be approved by the Zoning Officer, who shall certify that the proposed sign or awning complies with the requirements of this article.
- C. The permit fee for signs shall be \$2 per square foot of sign area, with a minimum fee of \$46. The sign area shall be computed for only one side of the sign even if two sides are used. The fee for awnings shall be \$10, all inclusive. The permit application shall include a sketch that shall indicate the size, location and elevation of the sign or awning along with an original detailed drawing of the sign or awning and if applicable the dimensions of the building.¹⁹
- D. The Zoning Officer shall render his decision on all applications within 20 days and shall keep on file all permits and applications for signs approved by the Zoning Officer as a permanent record.
- E. The Borough of Bradley Beach Land Use Board shall have jurisdiction to approve signs in connection with its statutory authority regarding subdivisions, site plans or conditional use and other properly presented application.
- F. The Borough of Bradley Beach Land Use Board shall have jurisdiction to approve signs which are presented to it as part of any properly filed development application. The Land Use Board shall also have jurisdiction of all requests for variance relief from the provisions of this article.

§ 450-49 Exempt signs and awnings.

The following signs and awnings shall be exempt from the provisions of this article, which require a permit, but all other provisions regarding size, location and type shall apply where appropriate.

- A. Governmental signs. All signs and awnings that are erected by the Borough of Bradley Beach or any of its departmental committees or agencies or by the State of New Jersey or County of Monmouth.
- B. Political signs. All signs which are political in message, provided that said signs are erected not more than 45 days prior to an election and removed no later than 10 days after an election and provided further that the aggregate total of all said signs per property shall not exceed 20 square feet.
- C. Religious, civic signs. Church, civic, or nonprofit temporary signs not to exceed four feet by eight feet, provided that special permission is granted by the Mayor and Council. A request for permission for placement of a sign under this subsection shall be made to the Zoning Officer, in writing, and permission may be granted only by resolution approved by a majority vote of the Mayor and Council.

- D. Temporary special signs. Any temporary sign or banner may be erected for a period not to exceed 30 days by permission of the Mayor and Council. A request for permission for placement of a sign under this subsection shall be made to the Zoning Officer, in writing, and permission may be granted only by resolution approved by a majority vote of the Mayor and Council.
- E. Grand opening and going out of business. Any sign or banner that is used to designate a grand opening of a business or a going-out-of-business event; provided, however, that said sign shall be limited to 40 square feet per property and shall be removed within 30 days after commencement.
- F. Temporary commercial signs. Temporary commercial signs are permitted as follows:
 - (1) Signs announcing that the premises on which the signs are located is available for sale or rent, provided that:
 - (a) One sign shall be permitted for each property regardless of its street frontage(s), except that, if under apartment, condominium or cooperative ownership, one sign is permitted for each unit.
 - (b) Such sign, unless affixed to a principal building, shall be placed not more than 10 feet from the principal building and shall not be higher than four feet from the ground at its highest point.
 - (c) No artificial illumination shall be used.
 - (d) No such sign shall exceed four square feet in area.
 - (e) Such sign shall be displayed only for as long as such premises is in fact available for sale or rental and shall be removed upon the issuance of a certificate of occupancy by the Borough for such sale or rental. In the event of a recurring or short-term rental property or unit, no advertising signage shall be displayed while the property or unit is occupied by a current rental.
 - (f) In addition to "for sale" signs and subject to the same number, height, setback and size restrictions, "open house" signs shall be permitted during the actual time period of an open house.
 - (2) Signs identifying a real estate development involving the construction of single-family dwellings in a subdivision, a multifamily development of more than four units or a nonresidential building, provided that:
 - (a) One sign shall be permitted for each property regardless of its street frontage(s).
 - (b) No such sign shall exceed four square feet in area.
 - (c) Such sign, unless affixed to a principal building, shall be placed not more than 10 feet from the principal building and shall not be higher than four feet from the ground at its highest point.
 - (d) No artificial illumination shall be used.

- (e) Such sign shall be displayed only for such period of time as there are any homes, apartments, nonresidential space or lots remaining unsold or unrented, but such period of time shall in no event exceed two years from the start of construction.
 - (f) No more than one sign may be displayed at any permitted time under this subsection.
- G. Commercial windows. Window signs and lettering shall be permitted in nonresidential zones subject to the following restrictions:
 - (1) Business. Window lettering and signs shall pertain only to the business occupying that portion of the premises where the window is located as defined in § 450-4, "window lettering, permanent."
 - (2) Permanent lettering and signs. Permanent lettering and signs shall be permitted, provided that the space containing the lettering and signs or the background for it does not exceed 20% of the window area. Any painted area of the window shall be construed as window lettering or signs.
 - (3) Temporary window lettering or signs. Temporary window lettering or signs are permitted, provided that they do not cover more than 30% of the window area and together with any permanent window signs do not cover more than 50% of the window area. Temporary window signs or lettering shall not exceed a period of 30 consecutive days, and temporary lettering shall not exceed an aggregate of 180 days in each calendar year.
- H. Sidewalk, freestanding, and sandwich-board-type. Sidewalk, freestanding, and/or sandwich-board-type signs are prohibited, except:
 - (1) As may be permitted by leases with concessionaries on public property; and
 - (2) One such sign per storefront along Main Street placed directly in front of the business advertised and within 10 feet of the front entrance to said business, provided that such sign shall not exceed 24 inches wide or 40 inches tall, and provided that a pathway area not less than four feet wide between the adjacent building and the adjacent curb shall be maintained at all times. The pathway area shall be unobstructed by trees, tree wells, light poles, trash receptacles, sign poles and posts, telephone booths and similar structures. The pathway area shall not meander around.
 - (3) Such sign may be displayed on a public property or thoroughfare if there is no reasonable location available directly in front of the business advertised, but such sign shall not be located more than 15 feet from the front entrance to said business, and the placement of such sign shall maintain a pathway area not less than four feet wide between any adjacent building and any adjacent curb at all times. The pathway area shall be unobstructed by trees, tree wells, light poles, trash receptacles, sign poles and posts, telephone booths and similar structures. The pathway area shall not meander around. A request for permission to place a sign under this § 450-49H(3) shall be made to the Zoning Officer, in writing, and such sign must meet all other requirements set forth in Chapter 450 to be considered, and permission may be granted only by resolution approved by an affirmative vote of a 2/3 majority of the Mayor and Council.

§ 450-50 Permitted signs and awnings.

The following signs shall be permitted in the GB, GBW, R-B, and B-O-R Zones, subject to the provisions of this chapter and the following additional restrictions:

- A. Wall-mounted signs and projection signs. Wall-mounted signs and projection signs shall be permitted, subject to the following:
- (1) There shall be no more than two signs permitted per business establishment, or if more than one business occupies a structure, no more than one facade and two identification signs per storefront shall be permitted.
 - (2) The size of a wall-mounted sign shall not exceed 10% of the facade area of the lowest floor of that portion of the building occupied by the applicant's business or 40 square feet, whichever is less. The size of a projection sign shall not exceed 12 square feet, and the lowest portion of the sign shall not hang lower than 8 1/2 feet above the sidewalk level, and the sign shall not project more than five feet from the surface plane of the largest face of the wall of the building to which it is attached. Projection signs shall be hung from one or more black metal chains or by a decorative wrought-iron-style bracket.
 - (3) An illuminated wall-mounted directory of occupant's sign not exceeding six square feet may be placed in a multi-tenant building with a common entrance. Changes in the individual names of the occupants shall not be considered a new sign requiring a new permit.
- B. Exterior Signs along Main Street should be in accordance with the following regulations:
- (1) Signs must relate to the uses being conducted on the premises.
 - (2) One sign placed or inscribed upon any facade of a building for each permitted use or activity which occurs therein. The sign may be illuminated but shall not be of the flashing or animated type and shall not project more than 12 inches in front of the facade nor extend beyond the top or the end of the facade. One sign shall be permitted for each business establishment. No such sign shall exceed five (5%) percent of the area of the facade on which it is located, or exceed twenty (20) square feet in total background area, whichever is less. No wall sign shall be permitted on the side or rear of buildings.
 - (3) One non-illuminated, temporary sign pertaining to the lease or sale of the same lot or building upon which it is placed, situated within the property lines of the premises to which it relates and not exceeding the area of the permanent sign permitted. This sign must be removed from the premises upon occupancy or transfer Certificate of Occupancy (C.O.) inspection.
 - (4) Only permanent business signs may be illuminated. Temporary or portable illuminated signs are prohibited. Any illuminated signs shall be shielded so as to prevent glare, and flashing signs are prohibited.

§ 450-51 Permanent window graphics.

Permanent window graphics shall be permitted, provided that they comply with the provisions of § 450-49G.

§ 450-52 Awnings.

Awnings shall be permitted in all zones subject to the following restrictions:

- A. Awnings may be erected at street level, provided that they shall not extend more than five feet from the surface plane of the largest facade wall of the building to which it is to be attached and must be not less than 8 1/2 feet above ground level. Awnings may contain graphics, including the name of the establishment covering not more than 10% of the surface area of the awning and may be illuminated from the rear. Awning graphics shall be limited to logos or symbols pertaining to the identification and shall not be used as advertising.

§ 450-53 Prohibited signs.

The following types of signs are specifically prohibited in all zones:

- A. Outdoor or rooftop advertising signs and billboards or electronic billboards of any kind, including freestanding and/or sandwich-board-type signs, except for sidewalk, freestanding, and sandwich-board-type signs permitted under § 450-49H.
- B. Any permanent or temporary signs which do not pertain to an occupant, service or product actually occupying or provided on the premises where such sign is located, including temporary signs identifying or advertising architects, builders or any other contractors on a premises where a building is being constructed, altered, repaired, renovated, or demolished.
- C. Roof signs extending above the wall to which they are attached.
- D. Signs posted on fences, posts, utility poles, trees, and street signs or traffic signs.
- E. Signs painted on municipal property or placed in the right-of-way or planting strips without the consent of the Mayor and Council.
- F. Signs painted directly on buildings, sidewalks or curbs.
- G. Signs on accessory buildings that are specifically defined by this chapter.
- H. Signs that flash, are illuminated (such as neon), make noise, imitate official traffic signs or signals or that otherwise contribute a hazard to the traveling public.
- I. Banners, streamers or advertising flags, except as set forth under § 450-49D and E.
- J. All signs not authorized by this chapter are prohibited.

ARTICLE XI
TELECOMMUNICATIONS TOWERS AND ANTENNAE

§ 450-54. Purpose.

The purpose of these regulations for the siting of telecommunications towers and antennas is to:

- A. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
- B. Encourage the location of towers in appropriate locations;
- C. Minimize the total number of towers throughout the Borough;
- D. Strongly encourage the joint use of approved tower facilities as a primary option rather than construction of new or additional single-use towers;
- E. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- F. 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;
- G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- H. Consider the public health and safety of communication towers; and
- I. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Borough of Bradley Beach shall give due consideration to the Borough Master Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

§ 450-55 Non-Applicability to amateur radio stations and to receive-only antennas.

The provisions of this article shall not govern any antenna that is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive- only antenna in accordance with Federal Communications Commission (FCC) regulations.

§ 450-56 Telecommunications towers and antennas on Borough property.

Telecommunications towers and antennas that are located on property owned, leased or otherwise controlled by the Borough of Bradley Beach and that are approved by the Mayor and Borough Council shall be deemed to be a permitted use as a municipal facility in any zone district and will not require site plan approval.

§ 450-57 Telecommunications towers and antennas on non-Borough property.

- A. Telecommunications towers and antennas may be allowed as a conditional use in the GB General Business Zone on property that is not owned, leased, or otherwise controlled by the Borough of Bradley Beach, subject to the minimum standards of the zone district and the standards, regulations and requirements set forth in this article. Site plan approval shall be required prior to the installation of telecommunications towers and antennas on non-Borough property.
- B. Telecommunications towers and antennas shall only be permitted on non-Borough property where the municipal approving authority has determined the following:
 - (1) There is substantial evidence that there is a significant telecommunications gap in the Borough that the proposed facility will correct.
 - (2) There is no Borough-owned property available and no telecommunications towers or antennas on Borough-owned property available where a proposed facility could locate or collocate that would correct the telecommunications gap.
 - (3) There are no non-Borough wireless telecommunications towers and antennas or transmission facilities available on which the proposed facility could locate or collocate that would correct the telecommunications gap.
 - (4) There is no residential use, school use, or health-care use on the lot on which the proposed facility is to be located and that the existing use and structure does not preclude the installation of a tower and antenna on the same lot.
 - (5) The application for the proposed facility is the joint application of two or more telecommunications carriers, licensed to provide service within the area, and that the application provides for the collocation of two or more carriers at the site.
 - (6) The dimensions of the entire lot on which the facility is located are used for the purpose of determining whether the installation of a tower and antenna complies with zone district development regulations, including but not limited to setback, lot coverage, and other such requirements. The dimensions of the entire lot shall control, even though the tower and antennas may be located on a leased parcel within such lot.
 - (7) A plan is submitted for the periodic testing of the facility to ensure ongoing compliance with applicable federal and/or state standards, the plan is subject to the review and approval of the Land Use Board.
- C. Each applicant for a tower and antenna shall provide to the Land Use Board, as part of its application, an inventory of its existing towers, antennas, or sites approved for towers and antennas, that are either within the jurisdiction of the Borough or within two miles of the border thereof, including specific information about the location, height, and design of each tower. The Borough may share such information with other applicants applying for approvals under this article or other organizations seeking to locate towers or antennas within the jurisdiction of the Borough; provided, however, that the Borough is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Telecommunications towers and antennas shall meet the following aesthetic requirements:

- (1) Towers shall either maintain a finish or be painted a color approved by the Land Use Board, so as to reduce visual obtrusiveness, subject to any applicable standards of the FAA.
- (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 supporting electrical and mechanical equipment must be of a neutral color 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) 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.
- (5) All towers 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 chapter 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. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (6) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local 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, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (7) For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough irrespective of municipal and county jurisdictional boundaries.
- (8) Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required franchises with the Borough.
- (9) No signs shall be allowed on an antenna or tower.
- (10) Buildings and support equipment associated with antennas or towers shall comply with the requirements as set forth herein.

- (11) The tower, including antennas, shall be a maximum height of 150 feet above the ground level at the base of the tower and usage criteria. The applicant shall submit structural design calculations certified by a licensed New Jersey professional engineer that the tower can structurally accommodate the number of shared users proposed by the applicant.
- E. Applicants for approval for a telecommunications tower shall submit, in addition to any information required for applications for site plan review, the following:
- (1) A location plan drawn to scale and 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 any other structures, topography, and parking.
 - (2) A survey and legal description of the parent tract and leased parcel (if applicable).
 - (3) The setback distance between the proposed tower and the nearest residential unit, and residentially zoned properties.
 - (4) The separation distance from other towers described in the inventory of existing sites submitted 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), if known.
 - (5) A landscape plan showing specific landscape materials.
 - (6) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 - (7) A description of compliance with all of the sections herein and all applicable federal, state or local laws.
 - (8) A statement by the applicant as to the number of users construction of the tower will accommodate for collocation.
 - (9) Identification of the entities providing the back haul network for the tower(s) described in the application and other telecommunication service sites owned or operated by the applicant in the Borough.
 - (10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed tower.
 - (11) A description of the feasible location(s) of future towers or antennas within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- F. Pursuant to this chapter, the Land Use Board shall, in addition to any standards for consideration of site plans, consider the following factors in the conditional use application:

- (1) Availability of suitable existing towers other structures or alternative technologies not requiring the use of towers or structures, as discussed herein.
 - (2) Height of the proposed tower.
 - (3) Proximity of the tower to residential structures and residential district boundaries.
 - (4) Nature of uses on adjacent and nearby properties.
 - (5) Surrounding topography.
 - (6) Surrounding tree coverage and foliage.
 - (7) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - (8) Proposed ingress and egress to the site.
- G. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Land Use Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the municipal agency related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs not exceeding new tower development are presumed to be reasonable.
 - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

- (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- H. The following minimum setback requirements shall apply to all telecommunications towers for which site plan approval is required:
- (1) Towers must be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line, but in no event shall the tower be located in the minimum required yard area or buffer area of the zone district.
 - (2) Guys and accessory buildings and structures must satisfy the minimum zoning district setback and buffer requirements.
 - (3) Separation from off-site uses/designated areas.
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Subsection H(3)(b) below, except as otherwise provided.
 - (b) Towers shall maintain a separation distance of 100 feet or 100% of the tower height; whichever is greater, from residential dwelling units.
 - (4) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers or other proposed towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown below in the Table of Required Separation Distances Between Towers:

Table of Required Separation Distances Between Towers

	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less Than 75 Feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- I. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing device; provided, however, that the municipal agency may waive such requirements, as it deems appropriate.

- J. The following requirements shall govern the landscaping surrounding towers for which site plan approval is required; provided, however, that the municipal agency may waive such requirements if the goals of this chapter would be better served thereby:
- (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences.
 - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.
 - (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 sufficient buffer.
- K. In approving the tower, the Land Use Board may impose conditions, including the use of an alternative tower structure, to the extent the municipal agency concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties or the neighborhood in which it is located.
- L. Buildings or other equipment storage structures shall comply with the following:
- (1) Antennas mounted on buildings or existing elevated structures shall not extend more than 30 feet above the highest point of the building's roof or above the highest point of the structure. The equipment cabinet or structure used in association with antennas shall comply with the following.
 - (2) The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 10 feet in height. In addition, for buildings and structures that are less than 65 feet in height, the related unmanned equipment structure, if over 200 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 - (3) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10% of the roof area.
 - (4) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- M. Antennas shall not be located on tower utility poles or light poles within a Borough street or right-of-way unless such facilities are approved by the Borough Council. Antennas proposed on towers, utility poles, or light poles within a street or right-of-way not owned by the Borough shall require approval as a conditional use. The related unmanned equipment structure shall not contain more than 200 square feet of gross floor area or be more than 10 feet in height, requirements of the zoning district in which located, and shall be screened from view of all residential properties.

- N. Any tower or antenna 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 Borough of Bradley Beach notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

ARTICLE XII **PERFORMANCE STANDARDS**

§ 450-58 Performance standards for all uses.

The following performance standards shall be considered as minimum standards under which any use or operation may be commenced or continued in any part of the Borough.

- A. Glare. No use (excepting that from outdoor lighting required by this chapter or other Borough ordinances) shall produce a strong, dazzling light or a reflection of a strong, dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered, and directed so that glare, direct light or reflection will not become a nuisance to adjoining properties, adjoining dwelling units, adjoining districts or streets.
- B. Heat. No use shall produce heat perceptible beyond its lot lines. Further, no use shall be permitted which would cause the temperature to rise or fall in any body of water.
- C. Vibration. No operation shall cause any vibration perceptible to the human senses of feeling at or beyond any property line of the site.
- D. Noise. Refer to General Ordinance § 310-1.
- E. Storage and waste disposal. No waste or sewage shall be discharged except as shall be approved by the Municipal Health Officer under applicable municipal and state regulations and statutes.
- F. Odor. Odors shall not be discernible at the lot line or beyond.
- G. Radioactive and thermal wastes. No radioactive or thermal waste or sewage shall be discharged and no devices and equipment shall be installed except as shall be approved by the Municipal Health Officer under applicable municipal and state regulations and statutes.
- H. Ventilation. No use shall obstruct the natural ventilation of adjacent uses nor contaminate the air with excessive heat or odor. Further, HVAC or mechanicals, which present with any type of exterior ventilation for properties which include new construction or residential additions shall require a five-foot setback. All other properties shall not be permitted to ventilate toward an adjacent uses unless set back five feet from the property line(s), or constructed and maintained to deflect the ventilation 90° away from the adjacent use. See also Section 450-13G.

- I. Electrical and/or electronic devices. Electrical and/or electronic devices and equipment shall be installed and operated in such a manner that they will create no electrical disturbances that will adversely affect the operation and control of any electrical and/or electronic devices located beyond the boundaries of the site.

§ 450-59 through § 450-69 (Reserved)

ARTICLE XIII
(RESERVED)

§ 450-70 through § 450-76 (Reserved)

ARTICLE XIV
INTERPRETATION

§ 450-77 **Minimum requirements.**

In the interpretation and application of the provisions of this chapter, such provision shall be held to be minimum requirements, adopted for promoting the health, safety and general welfare of the Borough.

ARTICLE XV
CONFLICT WITH OTHER LAWS

§ 450-78 **Most restrictive provisions to apply.**

Whenever the requirements of this chapter conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or statutes, the most restrictive or those imposing the higher standards shall govern.

ARTICLE XVI
VIOLATIONS AND PENALTIES

§ 450-79 **Administration; enforcement; zoning permits; violations.**

- 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 Borough's Zoning Officer and Department of Construction, Code Enforcement, Zoning and Department of Community

Development 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 may require the submission of the following items prepared by a New Jersey State Licensed Engineer or Land Surveyor:

- (1) A foundation location survey; before any framing may take place;
- (2) A Building Height Certification;
- (3) An as-built survey by the owner, at the owner's expense, before Certificate of Occupancy (C.O.) may be issued. To confirm compliance with the provision(s) of this chapter and/or Chapter 270 of this Code. The Zoning Officer shall 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 a 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 copies of a current survey/ site plan and three sets of construction plans. All submissions shall be also be simultaneously submitted in electronic format, to scale where appropriate, by the applicant. 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 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 chapter.
 - (7) Any zoning permit is valid for a period of two (2) years from the date of approval.
- 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 chapter shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be fined such sum not exceeding \$2,000 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 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 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 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, 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:

[1] For injunctive relief; and

[2] 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 years after the date of the recording of the instrument of transfer, sale conveyance of said land, or within six 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 2. 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 3. 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 4. 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 5. 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

LARRY FOX
Mayor

Introduced: 10/11/23

Date of Hearing and Adoption: