

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2023-13

AN ORDINANCE AMENDING CHAPTER 348: “PORTABLE STORAGE UNITS AND DUMPSTERS” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO UPDATE THE REGULATIONS PERTAINING TO SAME.

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, the Borough of Bradley Beach (the “Borough”) permits the temporary placement of portable storage units and dumpsters on private properties and public rights-of-way in accordance with the permitting regulations contained in Chapter 348: “Portable Storage Units and Dumpsters” of the Borough Code; and

WHEREAS, in recent years, the Borough has found its existing regulations to be insufficient in preserving and ensuring the quality of life for its residents and visitors; and

WHEREAS, the Borough finds that updating its regulations as to the temporary placement of portable storage units and dumpsters will aid in the enforcement of the Borough’s Ordinances and enhance the health, safety and welfare of the Borough’s residents and visitors;

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 348: “Portable Storage Units and Dumpsters” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended and supplemented as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 348: PORTABLE STORAGE UNITS AND DUMPSTERS

§ 348-1 Purview.

This chapter and the regulations herein are in addition to any other requirements of law, rule, regulation and/or Borough ordinances, specifically and without limitation.

§ 348-2 Definitions.

Terms not defined shall have their usual and customary meanings, unless a different meaning clearly appears from the context. The following terms whenever used or referred to in this chapter shall have the following respective meanings:

DUMPSTER/BAGSTER (COLLAPSIBLE DUMPSTER BAG) or ROLL-OFF CONTAINER

A bulk storage container for the collection of, and temporary storage of, solid waste, waste materials, rubbish, construction materials, industrial and other waste materials generally, that can be hauled directly to the point of disposal or emptied into a large compactor-type truck for disposal.

FRONT YARD ENVELOPE

The area encompassed by the distance from the improved roadway in front of the property to the point of the structure on the property closest to that roadway and from one side property line to the other side property line.

PORTABLE STORAGE UNIT

A transportable unit designed and used for the temporary storage of household goods, personal items, construction materials and supplies, and other materials which are placed on a site for the use of occupants of a dwelling or building on a limited basis. Portable storage units include but are not limited to certain trade-named units called "PODS®," "mobile attics," and like portable on-demand storage containers.

RUBBISH

Combustible paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding dunnage or noncombustible metal, metal furniture, dirt, glass, and crockery.

WASTE MATERIALS

Includes all other categories of materials to be disposed of, excluding garbage or recyclable materials.

§ 348-3 Regulations.

The following regulations apply to the placement and use of all portable storage units and dumpsters/bagsters regardless of whether they require a permit or not:

- A. No portable storage unit or dumpster/bagster shall be placed, in whole or in part, for more than two (2) business days, upon any street, sidewalk or within any public right-of-way, or upon any private property, without a permit therefor issued by the Borough.

- B. All portable storage units or dumpsters/bagsters that have been issued a permit to be placed in any property, street, sidewalk or within any public right-of-way and will remain in one of those areas during the hours between sunset of one day and sunrise of the next day shall be equipped with suitable reflectors or other warning devices as may be required by the Police Department and Code Official. Such reflectors shall be capable of reflecting motor vehicle headlights at a distance of 500 feet.

- C. Rubbish and waste materials shall be completely contained within any dumpster/bagster. The accumulation of rubbish or waste materials shall be not permitted outside the confines of a dumpster/bagster, nor shall it be permitted to accumulate so that the attached cover cannot be firmly closed. In the event that the dumpster/bagster does not have an attached cover, the rubbish or waste material shall not accumulate higher than the top of the sides of the dumpster/bagster and shall be covered by either a tarp or similar covering, except when rubbish and waste materials are being deposited in the dumpster/bagster.
- D. All portable storage units shall be securely closed when not in use. No materials, property or goods shall be stored outside of a portable storage unit during the hours between sunset of one day and sunrise of the next day, except if the portable storage unit is being used in conjunction with construction, and in such case only construction materials may be left outside of the portable storage unit as permitted by law, rule, regulation and/or Borough ordinances.
- E. All dumpsters shall bear the identification number assigned by the State of New Jersey and the name, address and telephone number of the person responsible therefor, and the permit issued by the Borough therefor.
- F. Portable storage units and/or dumpsters/bagsters ~~should~~ shall not be placed in the front yard envelope of any property, except within the driveway or vehicular access area(s) of such property, and may be placed anywhere within the side yard or rear yard envelope; ~~however, where the placement of the same is not possible or practical, the Code Enforcement Officer may permit the same under appropriate conditions.~~
- G. ~~Portable storage units and/or d~~ Dumpsters/bagsters shall not be placed within any street, sidewalk or within any public right-of-way or within the driveway or vehicular access area(s) of any property for more than sixty (60) days, except as the Code Enforcement Officer may permit in the case of undue hardship or under other appropriate conditions. two ~~times per calendar year, unless there are valid and current building permits issued for that property, and then the same is subject to all regulations and requirements herein.~~
- H. Dumpsters/bagsters shall not be placed within the side yard or rear yard envelope of any property for more than one-hundred-twenty (120) days, except that, upon a satisfactory inspection at the expiration of the current permit, the Code Enforcement Officer may further permit the dumpster/bagster to remain in place
- I. Portable storage units shall not be placed on any property for more than two (2) thirty (30) day periods per calendar year.
- H.J. The placement and/or use of more than one portable storage unit and more than one dumpster/bagster on a property, street, sidewalk or within any public right-of-way adjacent to a property at any given time.

~~F.K.~~ The portable storage unit and dumpster/bagster companies or property owners shall be responsible for the cost to repair any damage caused to any street, curb, sidewalk or other public improvements.

§ 348-4 Permits.

A permit for the placement and use of a portable storage unit and/or dumpster/bagster shall be required under the following conditions:

- A. The use of a portable storage unit or dumpster/bagster when it will be placed, in whole or in part, upon any property, street, sidewalk or within any public right-of-way.
- B. The use of a portable storage unit or dumpster/bagster for more than one day as permitted herein shall require a permit.
- C. If any of the foregoing conditions are met, the property owner shall apply for a permit on the prescribed permit application form, submit a permit fee of \$35 and be issued a permit prior to placing the portable storage unit and/or dumpster/bagster on the property or upon any street, sidewalk or within any public right-of-way adjacent to a property and shall be subject to the following additional regulations:
 - (1) ~~No permit for a portable storage unit and/or dumpster/bagster shall permit the same to be on a property, or upon any street, sidewalks or within any public right-of-way, or within the driveway or vehicular access area(s) of any property for more than 30 thirty (30) consecutive days; however, one (1) additional thirty (30) day permits-permit may be applied for and approved by the Code Enforcement Officer, provided that there are valid and current building permits issued for that property or at the discretion of the Code Enforcement Department and/or Police Department. Upon a showing of undue hardship or other appropriate conditions, the Code Enforcement Officer may permit a dumpster/bagster to remain in place for more than sixty (60) days.~~
 - (2) ~~No permit for dumpsters/bagsters shall permit the same to be within the side yard or rear yard envelope of a property for more than one-hundred-twenty days (120) consecutive days, except that, upon a satisfactory inspection at the expiration of the current permit, the Code Enforcement Officer may further permit the dumpster/bagster to remain in place.~~
 - (3) ~~No permit for a portable storage unit shall permit the same to be on a property, or upon any street, sidewalks or within any public right-of-way, for more than thirty (30) consecutive days; however, one (1) additional thirty (30) day permit may be applied for and approved during the calendar year.~~
 - ~~(2)~~(4) The regulations applicable to all portable storage units and dumpsters/bagsters in this chapter shall be complied with.

~~(3)~~(5)The permit shall be prominently displayed on the portable storage unit and/or dumpster/bagster at all times.

~~(4)~~(6)Prior to any permit being issued for the placement of a portable storage unit or dumpster/bagster which, in whole or in part, is upon any property, street, sidewalks or within any public right-of-way, the property owner shall provide sufficient proof of insurance coverage of \$500,000 for a combined single limit bodily injury and property damage coverage, which may be from the portable storage unit or dumpster/bagster rental company, naming the Borough of Bradley Beach, its agents, servants, officials and employees, as additional insureds, which shall be in effect at all times the portable storage unit or dumpster/bagster is so placed. Further, it shall be a condition of said permit that the property owner shall hold harmless, indemnify and defend the Borough of Bradley Beach, its agents, servants, officials and employees from any claims relating to the placement or use of the portable storage unit or dumpster/bagster, in whole or in part, upon any property, street, sidewalk or within any public right-of-way, or relating to the issuance of a permit for the same.

~~(5)~~(7)The Code Enforcement Department and/or Police Department, in their discretion, may refuse to issue a permit if they deem same to constitute a danger to public safety or an unwarranted interference with the efficient movement of traffic.

~~(6)~~(8)Upon the expiration of a permit, the portable storage unit or dumpster/bagster shall be immediately removed.

§ 348-5 Enforcement.

This section is to be administered and enforced by the Borough Department of Code Enforcement. The Police Department shall also have jurisdiction to enforce the placement of portable storage units or dumpsters/bagsters upon any street, sidewalk or within any public right-of-way without a permit therefor having been issued by the Borough; and, if a permit has been so issued, the Police Department shall also have jurisdiction to enforce the requirements for the placement of reflectors and other warning devices as may be required by the permit.

§ 348-6 Violations and penalties.

- A. Upon the failure, neglect or refusal of a property owner or company to comply with this chapter, then the Borough is authorized to issue a violation and/or summons. The Borough may remove any portable storage unit or dumpster/bagster without notice if it determines an emergency condition exists requiring action with regard to the portable storage unit or dumpster/bagster. Further, should the basis for the issuance of a violation or summons not be cured within 10 days of the issuance of the violation or summons, then the Borough, without notice to the property owner or company, may remove the portable storage unit or dumpster/bagster. All violations or summonses shall be issued in the name of the property owner and the owner of the portable storage unit or dumpster/bagster as co-defendants if the unit identifies the owner of the same.

- B. Should the Borough be required to move or remove the portable storage unit or dumpster/bagster in order to correct any violation of this chapter, the Code Enforcement Department shall certify the costs of removal and storage of said portable storage unit or dumpster/bagster to the Chief Financial Officer, who shall be authorized to forward the bill to the property owner or person or entity in control of said property or dumpster/bagster or container company for payment within 30 days of the date of the bill and any continuing storage costs. The amount of the charge shall become a lien upon the lands and properties on which the portable storage unit or dumpster/bagster was located or properties of the owner, tenant or controller of the portable storage unit or dumpster/bagster where such portable storage unit or dumpster/bagster served the benefit and use of, in the opinion of the Borough, and shall be collected in the same fashion as real estate property taxes. Should the person or entity who owns, leases or controls the portable storage unit or dumpster/bagster fail to pay all charges, including fines and penalties which may have been assessed by the Municipal Court, and remove the portable storage unit or dumpster/bagster from Borough custody within 60 days of the Borough removing and storing the same, then the Borough may sell the property at public auction. If the portable storage unit or dumpster/bagster container identifies the owner of the portable storage unit or dumpster/bagster, the same shall be notified of the proposed sale in writing 10 days prior to public sale. Any monies received as a result of the public auction shall first be credited toward any costs associated with the removal and/or storage of the portable storage unit or dumpster/bagster, then to any costs of placing or removing the lien upon the property, then to any costs of the public auction, then to any fines and penalties which may have been assessed by the Municipal Court, and, should any balance remain, the same shall be paid to the owner of the portable storage unit or dumpster/bagster if the container so identifies the owner thereof; if not, then to the property owner.
- C. Penalties. Any person(s) who is (are) found in violation of the provisions of this chapter shall be subject to the penalties in Chapter 1, Article II, General Penalty.

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, 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. This Ordinance shall take effect upon adoption and publication in accordance with the laws of the State of New Jersey.

SO ORDAINED as aforesaid.

Erica Kostyz, RMC, CMR
Municipal Clerk

Larry Fox
Mayor

Introduced: September 27, 2023

Date of Hearing and Adoption: October 11, 2023