

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2021-01

AN ORDINANCE AMENDING CHAPTER 450: "ZONING" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO AMEND AND AUGMENT THE TERMS CONTAINED IN SECTION 450-4: "DEFINITIONS" TO CLARIFY SAME AND TO PROVIDE MORE SPECIFICITY TO THE DEFINITIONS AND REGULATIONS CONTAINED THEREIN.

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, in recent years, the Mayor & Council of the Borough of Bradley Beach (the "Borough") have become aware that the Borough's Zoning Ordinances do not adequately define many terms used in the ordinary parlance of land use regulation; and

WHEREAS, due to ambiguities contained in the Borough's Zoning Ordinances, combined with rising property values within the Borough, the Borough has increasingly received land use applications presenting unorthodox plans in light of said ambiguities; and

WHEREAS, with the increasing variety of land use applications given said ambiguities, in recent years, the Borough has been increasingly involved in disputes and litigation with property owners, as well as their neighbors; and

WHEREAS, the Borough desires to cure the aforementioned ambiguities in its Zoning Ordinances to clarify certain definitions in order to provide property owners with more certainty in evaluating potential or proposed improvements to their properties; and

WHEREAS, the Borough desires to cure the aforementioned ambiguities in its Zoning Ordinances to provide its Zoning Officer with more certainty and less discretion in evaluating land use applications in order to create more fairness and transparency in said processes; and

WHEREAS, the Borough is aware that this Ordinance, which amends only the definitions contained in Borough Code Section 450-4, does not fully cure all issues with the Borough's Zoning Ordinances that have been previously and publicly discussed before governmental bodies; and

WHEREAS, the Borough is further aware that there are hundreds of non-conforming lot owners within its limits, all of whom are subject to land use board review for each and every improvement to their properties, even if the proposed improvements do not exacerbate any existing non-conformity; and

WHEREAS, the Borough is now considering this Ordinance addressing the definitions contained in Borough Code Section 450-4 as the first step, or the foundation, of its continuing process to address all issues and wholly bring fairness and clarity to the Zoning 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. Section 4 entitled "Definitions" of Chapter 450 entitled "Zoning" of the Revised General Ordinances of the Borough of Bradley Beach is hereby replaced, in its entirety with the following text:

§ 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

- (1) A structure added to the original structure at some time after the completion of the original;
- (2) an extension or increase in floor area, height, or volume of a building or structure.

ADMINISTRATIVE OFFICER

Means 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 Planning Board or the Zoning Board of Adjustment 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 over a portion of the footprint of the first or second floor of the dwelling below.

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 7 feet.

BED-AND-BREAKFAST GUESTHOUSE

An residential home providing sleeping or dwelling accommodations to transient guests.

BEDROOM

A private room of at least 70 sq 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.

BOARD OF ADJUSTMENT

The Zoning Board of Adjustment of the Borough of Bradley Beach.

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, 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.

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 7 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 Planning 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, expressed as a percentage, 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 120 square feet on a lot to the total lot area.

COVERAGE, IMPERVIOUS

All items as listed in "Coverage, Building" plus the area of any impervious surfaces, including walks, driveways, patios, above and below ground swimming pools, steps, decks, 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. Sheds less than 120 square feet in area and on "Pervious Foundations" shall not be included in this calculation. All decks no higher than the finished first floor of the dwelling, constructed in a pervious manner that allow storm water to filter to the ground shall not be included in this calculation. Loose stone shall not be included in this calculation. Inground Private Swimming Pool water surfaces shall be exempt from impervious coverage calculations up to 4%. (Above ground Private Swimming Pool are not included)

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 above ground, open and uncovered platform structure without walls, higher than twelve (12") inches above grade attached to a dwelling. (*see also* **ROOFTOP DECK**)

DECK, ON GRADE

An exterior open and uncovered platform structure without walls, twelve inches (12") or lower above grade.

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 Planning Board, Zoning Board of Adjustment, 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.

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.

LANDSCAPE

- (1) An expanse of natural scenery;
- (2) 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:

- (1) Proposed landscape species (such as number, spacing, size at time of planting, and planting details)
- (2) Proposals for protection of existing vegetation during and after construction
- (3) Proposed treatment of hard and soft surfaces
- (4) Proposed decorative features
- (5) Grade changes
- (6) Buffer and screening devices
- (7) 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 as 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 degrees.

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**

MARIJUANA CULTIVATION FACILITIES - A facility licensed to grow and cultivate marijuana and/or cannabis and to sell marijuana and/or cannabis to cultivation facilities but not to consumers.

MARIJUANA PRODUCT MANUFACTURING FACILITIES - An entity licensed to purchase marijuana and/or cannabis; manufacture, prepare and package marijuana and/or cannabis items; and sell items to other marijuana and/or cannabis product manufacturing facilities and to marijuana and/or cannabis retailers, but not to consumers.

MARIJUANA TESTING FACILITIES - An independent, third-party entity meeting accreditation requirements and is licensed to analyze and certify the safety and potency of marijuana and/or cannabis products and/or items.

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.

MEDICINAL CANNABIS RETAIL ESTABLISHMENT - an entity licensed pursuant to the New Jersey Compassionate Use Medical Marijuana Act (P.L. 2009, c. 307) to lawfully purchase or receive medical cannabis and to sell medical cannabis and medical cannabis products to consumers from a retail store, with a full time pharmacist on site during operational hours, which shall also be known as a medical cannabis dispensary or medical marijuana dispensary.

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.

MOTEL

An establishment providing sleeping accommodations for transients, providing individual entrances from the exterior of the building to each unit and providing parking spaces convenient to each individual entrance, with or without a dining room.

MUNICIPAL AGENCY

The Planning Board, Board of Adjustment 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.[3]

MUNICIPALITY

Means 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 Ordinance 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

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.

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.

PLANNING BOARD

The Planning Board of the Borough of Bradley Beach.

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.

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.

PRE EXISTING 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.

RECREATIONAL MARIJUANA RETAILER ESTABLISHMENTS - an entity licensed to purchase recreational marijuana and/or cannabis from Marijuana Cultivation Facilities and recreational marijuana and/or cannabis items from Marijuana Product Manufacturing Facilities or recreational marijuana and/or cannabis wholesalers, and to sell recreational marijuana and/or cannabis and recreational marijuana and/or cannabis products to consumers from a retail store, which shall also be known as a dispensary.

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, MINOR

A development plan of one or more lots which meet all of the following criteria:

- (1) Proposes new development of not more than 1,000 square feet of new or additional floor area
- (2) Not more than five new or additional off-street parking spaces; and
- (3) Meets all the requirements of the zone in which it is located.
- (4) 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
- (5) 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."

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.

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 Planning 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, INGROUND

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, above ground 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, above ground pools, including portable pools, exterior hot tubs, saunas and wading pools in excess of 25 sq. ft. and 12 in. deep.

TELEPHONE POLE (also UTILITY POLE)

A telephone pole (also utility pole) is 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.

USED CAR LOT

A premises wherein or whereupon used motor vehicles of any kind or nature may be offered for sale, lease, traded in, stored or held out for the public's purchase thereof

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 windowpane, 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

- (1) A structure containing, sending and receiving antennas, and prefabricated or modular structures or cabinets containing electronic equipment.
- (2) A Federal Communication Commission (FCC) licensed facility, receiving, and relaying voice and data signals from various wireless communications devices and equipment.
- (3) 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 street lot line and the front building line of the principal structure. The depth of the front yard shall be measured at right angles to the street line. In the case of a corner lot, the "front yard" shall mean the open unoccupied space extending the full width and full depth of the lot, situated between the front lot line and front building line of the principal structure and between the side lot line and side building line closest to the side street.

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 lot line. In the case of a corner lot, the rear yard shall mean the open unoccupied space extending the width of the lot, situated between the rear lot line and rear building line of the principal structure, exclusive of the area between the side lot line and side building line closest to the side street, extended.

YARD, SIDE

An open unoccupied space on the same lot with a principal building, extending from the front building line of the principal structure to the rear building line of the principal structure and situated between the side lot lines and the side building line. The side yard shall be measured at right angles to the side lot line.

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

Means a document signed by the administrative officer (1) 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 (2) 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”

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.

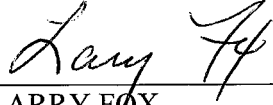
SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Bradley Beach, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach 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: January 26, 2021

Date of Hearing and Adoption: February 23, 2021