

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**ORDINANCE 2021-8**

**AN ORDINANCE AMENDING CHAPTER 1: "GENERAL PROVISIONS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO IMPLEMENT LOCAL SUPPLEMENTAL VIOLATIONS BUREAU SCHEDULE APPROVED BY MONMOUTH COUNTY ASSIGNMENT JUDGE PURSANT TO NEW JERSEY COURT RULE 7:12-4.**

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SECTION 1. Article II entitled "General Penalty" of Chapter 1 entitled "General Provisions" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

**CHAPTER 1           GENERAL PROVISIONS**

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**ARTICLE II           ~~General Penalty~~ Penalties**

**§ 1-3           Maximum ~~penalty~~ and Minimum Penalties.**

A. For violation of any provision of any chapter of this Code, or any other ordinance of the Borough where no specific penalty is provided regarding the section or sections violated, the maximum penalty, upon conviction, shall be a fine not exceeding \$2,000, imprisonment for a period not exceeding 90 days or a period of community service not exceeding 90 days, or any combination thereof, at the discretion of the Municipal Court Judge (N.J.S.A. 40:69A-29).

B. The Borough Council may prescribe that, for the violation of any particular Code provision or ordinance, at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100 (N.J.S.A. 40:69A-29).

**§ 1-4           Separate Violations and Application of Penalty.**

A. Except as otherwise provided, each and every day in which a violation of any provision of this Code or any other ordinance of the Borough exists shall constitute a separate violation.

B. The maximum penalty stated in this article is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.

C. In addition to any elective remedy other than fine or penalty or community service contained in any other law or ordinance, the imposition of one shall not negate the other.

**§ 1-5      Application of penalty Local Supplemental Violations Bureau Schedule.**

- ~~A. The maximum penalty stated in this article is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.~~
- ~~B. In addition to any elective remedy other than fine or penalty or community service contained in any other law or ordinance, the imposition of one shall not negate the other.~~

Pursuant to R. 7:12-4, the following Local Supplemental Violations Bureau Schedule of designated offenses and payable amounts has been approved by the Monmouth County Assignment Judge and shall be in effect for offenses committed on and after May 1, 2021. The following Local Schedule shall be prominently posted for public inspection at the location of the Violations Bureau of the Borough of Bradley Beach:

<u>Violation of Ordinance</u>	<u>Description of Offense</u>	<u>Payable Amount</u>
<u>24-33</u>	<u>Removal of Shade Tree</u>	<u>\$155.00</u>
<u>110-10</u>	<u>Underage Possess/Consume Alcohol</u>	<u>\$300.00</u>
<u>115-6(A)</u>	<u>Cats – No More Than 3</u>	<u>\$100.00</u>
<u>115-6(C)</u>	<u>Cats Kept Sanitary/Clean</u>	<u>\$100.00</u>
<u>115-17</u>	<u>Feeding of Wildlife</u>	<u>\$55.00</u>
<u>123-8(B)</u>	<u>Swimming At Night</u>	<u>\$55.00</u>
<u>123-8(C)</u>	<u>No Surf/Fishing in Bathing Area</u>	<u>\$55.00</u>
<u>123-8(D)</u>	<u>Tamper with Lifeguard Equipment</u>	<u>\$55.00</u>
<u>123-8(G)</u>	<u>Throwing Ball/Bathing Hours</u>	<u>\$55.00</u>
<u>123-8(J)</u>	<u>Interfere with Lifeguard</u>	<u>\$55.00</u>
<u>123-8(K)</u>	<u>Beach Midnight Limit</u>	<u>\$55.00</u>
<u>123-8(L)</u>	<u>Disrobing in Public</u>	<u>\$55.00</u>
<u>123-8(N)</u>	<u>Entry Onto Beach</u>	<u>\$55.00</u>
<u>123-8(R)</u>	<u>Dangerous Objects on Beach</u>	<u>\$55.00</u>
<u>134-7</u>	<u>Prohibited Launch/Retrieval</u>	<u>\$55.00</u>

<u>160-7</u>	<u>Certificate of Occupancy</u>	<u>\$155.00</u>
<u>160-8</u>	<u>Allowing to Sublet Without C/O</u>	<u>\$155.00</u>
<u>160-11</u>	<u>Failure to Re-Inspect Property</u>	<u>\$155.00</u>
<u>160-12</u>	<u>Re-Inspection for C/O</u>	<u>\$155.00</u>
<u>160-13</u>	<u>Smoke Detectors Required</u>	<u>\$55.00</u>
<u>166-3</u>	<u>Curfew</u>	<u>\$55.00</u>
<u>163-3</u>	<u>Dunes</u>	<u>\$55.00</u>
<u>195-1</u>	<u>False Information</u>	<u>\$55.00</u>
<u>201-3</u>	<u>Permit for Fence Replace/Erect</u>	<u>\$100.00</u>
<u>210-1</u>	<u>Burning Leaves/Sticks</u>	<u>\$55.00</u>
<u>250-4</u>	<u>Discharge Hazardous Substance</u>	<u>\$155.00</u>
<u>258-1((J))</u>	<u>Allow Occupancy More Than 30</u>	<u>\$100.00</u>
<u>270-25(A)</u>	<u>Failure to Remove Stone</u>	<u>\$55.00</u>
<u>295-2</u>	<u>Loitering</u>	<u>\$55.00</u>
<u>303-1</u>	<u>Mercantile License</u>	<u>\$100.00</u>
<u>339-1</u>	<u>Park/Recreation Area Damage</u>	<u>\$89.00</u>
<u>344-3</u>	<u>Peddlers/Solicitors License</u>	<u>\$55.00</u>
<u>350-1</u>	<u>Property Maintenance</u>	<u>\$155.00</u>
<u>357-5</u>	<u>Unauthorized Collection of Recyclables</u>	<u>\$55.00</u>
<u>365-14.1</u>	<u>Summer Rentals – Families Only</u>	<u>\$89.00</u>
<u>356-16</u>	<u>Summer Rental License</u>	<u>\$89.00</u>
<u>398-7</u>	<u>Failure to Replace Sidewalk</u>	<u>\$89.00</u>
<u>415-3</u>	<u>Operate Taxi Business from House</u>	<u>\$89.00</u>

<u>430-2</u>	<u>Failure to Remove Vehicle After Order</u>	<u>\$89.00</u>
<u>450-8</u>	<u>Alter Structure Without Approval</u>	<u>\$155.00</u>
<u>450-23</u>	<u>Allow Basement Occupancy</u>	<u>\$100.00</u>
<u>450-23(B)</u>	<u>Violation of Kitchen</u>	<u>\$89.00</u>
<u>450-40</u>	<u>Driveway Requirement(s)</u>	<u>\$89.00</u>
<u>450-41(A)(3)</u>	<u>Install Driveway Without Permit</u>	<u>\$155.00</u>
<u>302-3.1</u>	<u>Remove Snow from Sidewalk/Lot</u>	<u>\$31.00</u>

**§ 1-6 Minimum penalty-Additional Provisions Applicable to Local Supplemental Violations Bureau Schedule.**

The Borough Council may prescribe that, for the violation of any particular Code provision or ordinance, at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100 (N.J.S.A. 40:69A-29).

A. The Local Supplemental Violations Bureau Schedule lists specific amounts that may be payable through the Violations Bureau for designated traffic and non-traffic offenses pursuant to R. 7:12-4. However, payment for any of those listed offenses, or any other matter, may not be made through the Violations Bureau if the law enforcement officer marks on the complaint-summons that a court appearance is required.

1. If, in the opinion of the officer issuing the complaint-summons, circumstances indicate the defendant should appear in court, the officer has the option to check the "Court Appearance Required" box on the complaint-summons, in which case the matter may not be processed in the Violations Bureau.
2. Pursuant to and in accordance with R. 7:12-3, the Municipal Court may permit a guilty plea by mail or to plead not guilty by mail and submit a written defense for use at trial, if a personal appearance by the defendant would constitute an undue hardship such as illness, physical incapacity, substantial distance to travel, or incarceration.

B. For traffic violations, the payable amount established in the Local Supplemental Violations Bureau Schedule, for each offense, includes at least a fine, court costs (which may equal, but not exceed the fine), and the following amounts required by statute to be assessed: \$1 for the Body Armor Replacement Fund; \$1 for the New Jersey Spinal Cord Research Fund; \$2 for the New Jersey Forensic DNA Laboratory Fund; \$1 for the Autism Medical Research and Treatment Fund; and \$1 for the New Jersey Brain Injury Fund.

C. For non-traffic violations, the payable amount established in the Local Supplemental Violations Bureau Schedule, for each offense, includes a fine and court costs (which may equal, but not exceed the fine).

D. A portion of the total court costs allocated in the Local Supplemental Violations Bureau Schedule shall be distributed upon collection in accordance with N.J.S.A. 22A:3-4 and N.J.S.A. 2B:12-30, as follows:

1. For all violations payable through the Violations Bureau, pursuant to the Statewide Violations Bureau Schedule or a Local Schedule, \$2 shall be collected by the Municipal Court administrator for the deposit into the Automated Traffic System Fund and \$3 shall be collected by the Municipal Court Administrator and deposited into the Automated Traffic System Statewide Modernization Fund. This portion of court costs cannot be suspended.

2. For all violations of the provisions of Title 39, or any other motor vehicle or traffic violation payable through the Violations Bureau, \$0.50 shall be collected by the Municipal Court Administrator and deposited into the Emergency Medical Technician Training Fund. This portion of court costs cannot be suspended.

3. Any remaining court costs shall be collected by the Municipal Court Administrator and distributed to the Borough of Bradley Beach.

E. Additional penalties for failure to appear on return dates.

1. For motor vehicle, traffic, and parking cases listed on the Local Supplemental Violations Bureau Schedule, the following additional penalties shall be added to the payable amount, as indicated:

(a) When a supplemental notice is sent, \$10 per notice shall be added to the payable amount due.

(b) When a notice of proposed suspension for a parking violation is sent, \$10 shall be added to the payable amount.

(c) When an order to suspend is issued for a parking violation, \$15 will be added to the payable amount.

(d) A DMV fee of \$3 is also to be added to the total payable amount due upon the issuance of an order to suspend.

(e) When a warrant is issued, unless the judge otherwise orders, the amount of the bail indicated on the warrant shall be as follows:

(i) Parking offenses: the payable amount, plus \$15.

(ii) All other listed offenses: the payable amount, plus \$25.

(f) Pursuant to N.J.S.A. 39:5-9, costs not to exceed \$33 may be deducted by the Municipal Court from forfeited bail in traffic cases.

2. For non-traffic offenses listed on the Local Supplemental Violations Bureau Schedule, N.J.S.A. 2B:12-31 permits the Municipal Court to order the suspension of a defendant's driving privilege for failure to appear at any scheduled court appearance. The following procedures may be used by the Court to effectuate that process.

(a). Send a notice of proposed suspension of driving privileges for failure to appear to the defendant. This notice may be used for violations that are payable on this Schedule, as well as for those violations that are not. Unlike traffic matters, no fee may be assessed for the mailing of this notice.

(b) Should the defendant fail to respond and appear in response to the notice of proposed suspension, the Municipal Court may issue an order of suspension. When the Municipal Court issues the order, \$25 [\$10 (notice) + \$15 (order)] shall be added to the total payable amount.

(c) A DMV fee of \$3 shall also to be added to the total payable amount, upon the issuance of the order of suspension.

(d) When a warrant is used, unless the judge otherwise orders, the amount of the bail indicated on the warrant shall be the amount of the payable amount, plus \$50.

F. By executing the form of authorization to apply bail against fine(s) and costs and waiver of rights, a defendant against whom a warrant has been issued waives the rights to a lawyer and a trial, enters a plea of guilty to the offense charged and authorizes the Municipal Court Administrator to apply the bail posted toward the payment of fines, assessments and costs owed. This form may be used for all offenses payable through the Violations Bureau.

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.

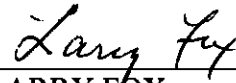
SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified 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  
Municipal Clerk



LARRY FOX  
Mayor

Introduced: March 9, 2021

Date of Hearing and Adoption: 3/23/21