

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**ORDINANCE 2022-07**

**AN ORDINANCE SUPPLEMENTING AND AMENDING  
CHAPTER 5: "ADMINISTRATION OF GOVERNMENT"  
OF THE BOROUGH'S REVISED GENERAL ORDINANCES  
TO MODIFY AND CLARIFY CERTAIN MEETING RULES,  
AGENDA GUIDELINES, AND APPOINTMENT POWERS.**

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**Mayor Fox** offered the following Ordinance and moved its introduction:

**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 5 entitled "Administration of Government" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

**CHAPTER 5**

**ADMINISTRATION OF GOVERNMENT**

**ARTICLE I            ORGANIZATION, POWERS, MEETINGS, AND RULES  
                                 OF BOROUGH COUNCIL**

**§ 5-1                Legislative Power.**

All legislative power of the Borough shall be exercised by the Borough Council pursuant to the Charter except as may be otherwise provided by general law. The Borough Council, in addition to such other powers and duties as may be conferred upon it by the Charter or otherwise by general law, may require any municipal officer to prepare and submit sworn statements regarding his or her official duties and the performance thereof and may investigate the conduct of any department, office or agency of the municipal government.

**§ 5-2                Membership of Council; terms of office of Council and Mayor.**

The Council shall consist of the Mayor and four Councilpersons. Members of the Council shall be elected at large by the voters of the municipality on the Tuesday after the first Monday in November, or such other day that the general election in November may be held as provided by law, in the years in which municipal officers are to be elected, and shall serve for a term of three years beginning on the first day of January next following their election. The Mayor shall be elected, however, for a term of four years beginning on the first day of January next following his or her election.

**§ 5-3            Organization; quorum; committees.**

- A. *Presiding officer.* The Mayor shall preside over all meetings of the Borough Council and shall participate and vote as other Council members.
- B. *Council President.* The Council annually shall select from among its members a Council President, who shall serve in the place of the Mayor in the event of his or her absence, disability or refusal to act as Acting Mayor.
- C. *Quorum.* A majority of the whole number of the Borough Council shall constitute a quorum for the transaction of business.
- D. *Committees.* The Mayor may appoint and designate committees of the Council, including a Finance Committee, pursuant to N.J.S.A. 40:69A-123.

**§ 5-4            Clerk of Council.**

The Borough Clerk shall serve as Clerk of the Borough Council and shall be appointed ~~and serve pursuant to statute by the Mayor with the advice and consent of Council, pursuant to N.J.S.A. 40:69A-122.~~ He or she shall attend and keep the minutes of all meetings of the Borough Council. The minutes shall be signed by the Clerk, subject to the approval of the Borough Council.

- A. The Clerk shall record all ordinances of a permanent character in books to be provided for that purpose. After each ordinance he or she shall also record and certify the proof of publication thereof as required by law. Each ordinance so recorded shall be signed by the Mayor, and the Clerk, who shall attest that it was duly adopted upon a date stated, and when so signed, the recorded copy shall be deemed to be a public record of the ordinance. Any omission by the Clerk or the Mayor to record, sign or certify as herein required shall not impair or affect the validity of any ordinance which has been duly adopted.
- B. At the close of each year, or sooner, the Clerk, with the advice and assistance of the Borough Attorney, shall bind, compile or codify all the ordinances, or true copies thereof, which then remain in force and effect. He or she shall also properly index and certify the record books, compilation or codification of ordinances. The Borough Council may arrange for the rendering of the Clerk's services by a consulting firm.
- C. The Clerk shall maintain custody of and safely keep all records, books and documents of the Borough, except those committed by ordinance to any other office or transferred thereto by the Borough Council. He or she shall, on request and the payment of the fees prescribed therefor by resolution of the Borough Council or state statute for the use of the Borough, furnish a certified copy of any such public document as defined by statute in his or her custody under the Corporate Seal of the Borough.
- D. The Clerk shall cause the Corporate Seal of the Borough to be affixed to instruments and writings when authorized by ordinance or resolution of the Borough Council or when necessary to exemplify any document on record in his office or to certify any act or paper which, from the records in his office, shall appear to have been a public act of the Borough or a public document. He or she shall not affix the Seal or cause or permit it to be affixed to any other instrument, writing or other paper unless required by law or ordinance.

E. The Clerk, subject to the supervision of the Mayor and Borough Council, shall:

1. Except as otherwise provided by this chapter, be the depository and custodian of all official surety bonds, letters of credit or negotiable instruments furnished by or on account of any officer or employee, except his or her own bond, which shall be placed in the custody of the Treasurer; of all insurance policies upon or with respect to risks insured for the benefit of the Borough or to protect it against any claim, demand or liability whatsoever; and all formal contracts for work, labor, services, supplies, equipment and materials to which the Borough may be a party.
2. Be the depository for and have custody of all performance bonds running to the Borough as obligee, or any other form of security given by any contractor, subdivision developer or other persons on account of work done or to be done in or for the Borough.
3. Have custody of all deeds and leases of property owned by the Borough.
4. Report to the Borough Council annually, at such time as it may require, on the coverage, expiration date and premium of each surety bond and contract of insurance and the nature and terms of outstanding public leases, the rent received by each and their respective expiration dates.
5. Perform such other duties as assigned to him or her by the Mayor and/or the Mayor and Borough Council.

**§ 5-5 Deputy Clerk.**

There may be a Deputy Clerk appointed by the Council, who shall have, exercise and perform the functions, powers and duties of the Clerk in the absence or upon the direction of the Clerk.

**§ 5-6 Vacancies in Office.**

Vacancies in the office of Mayor and Council shall be filled in the manner provided by the Municipal Vacancy Law (N.J.S.A. 40A:16-1 et seq.).

**§ 5-7 Presiding Officer.**

The Borough Council shall at its annual reorganization meeting as provided for hereinafter select a Council President from among its members (other than the Mayor). The Mayor shall preside over all meetings of the Council. In the absence of the Mayor, the Council President shall preside. In the absence of the Mayor and Council President, the Borough Council shall select a temporary presiding officer from among its members.

**§ 5-8 Meetings of Council.**

- A. *Reorganization meeting.* The Borough Council shall hold a reorganization meeting January 1 at 12:00 noon or at some other hour on any day during the first week in January as the Council may by resolution fix.

B. *Regular meetings.* At the annual reorganization meeting, the Borough Council shall, by resolution, designate the time and place of holding regular meetings, which shall be at least twice a month, unless cancelled or adjourned.

C. *Special meetings.*

1. Special meetings may be called by the Mayor at any time or shall be called by the Mayor upon the written request of a majority of the Borough Council persons. Such request shall be in writing and signed by a majority of the members of Council – or through electronic mail notifications – and shall specify the purpose for which such meeting is to be called. No business shall be transacted at any special meeting other than that specified in the request.
2. Upon receipt of any such request, the Mayor shall promptly direct the Clerk to serve notice, in writing, of such special meeting upon each member of the Council at least 48 hours prior to the time for which the meeting is called and to serve all notices required by the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.). The notice shall designate the purpose of the special meeting and that no other business shall be conducted.

D. *Emergency meetings.*

1. Should the Mayor or a majority of the Borough Council determine that a state of emergency exists which is of such urgency and importance that the delay necessary to call a special meeting would be likely to result in substantial harm to the public interest, the Mayor or a majority of the Council may call an emergency meeting.
2. The call shall be filed with the Clerk at any time not less than one hour prior to the time set for the emergency meeting and shall be signed by the Mayor or a majority of the Council and shall designate the purpose of the emergency meeting.
3. Whenever an emergency meeting is called, the Clerk shall forthwith cause written notice to be served upon each member of the Borough Council at his or her place of residence or at his or her regular place of business by leaving a copy thereof with the Council person personally or with a responsible adult, said notice stating the date, time and place of the meeting and the purpose for which the meeting is called. Such written notice shall not be required if a written – or electronic mail – waiver of notice is executed by all members of the Borough Council. The Police Department shall cooperate fully with the Clerk in serving such notice.
4. At the time and place of the emergency meeting, the meeting may proceed upon the affirmative vote of 2/3 of the members present if:
  - a. Such meeting is required in order to deal with matters of such urgency and importance that a delay for the purpose of providing adequate notice would be likely to result in substantial harm to the public interest;
  - b. The meeting is limited to discussion of and acting with respect to such matters of urgency and importance;

- c. Notice of such meeting in accordance with N.J.S.A. 10:4-6 et seq. is provided as soon as possible following the calling of such meeting; and
  - d. Either the Borough Council could not reasonably have foreseen the need for such meeting at a time when adequate notice could have been provided or, although the Council could reasonably have foreseen the need for such meeting at a time when adequate notice could have been provided, it nevertheless failed to do so.
- E. *Executive session.* The Borough Council shall not exclude the public from any meeting or portion thereof unless:
- 1. The matter to be discussed is enumerated in N.J.S.A. 10:4-12b (1) through (9); and
  - 2. The Council has passed a resolution at a meeting to which the public shall be admitted:
    - a. Stating the topic and the subject matter or general nature of the subject to be discussed; the participants in the Executive Session; and whether any action will be taken; and
    - b. Stating as precisely as possible the time when and the circumstances under which the discussion conducted in closed session of the Council can be disclosed to the public.

**§ 5-9 Rules of Procedure at Meetings.**

- A. *Agenda.* The process for the development of the Agenda follows:
- 1. The preliminary agenda for each regular meeting of the Borough Council shall be prepared by the Clerk, and delivered for Council review, at least 7 calendar days (168 hours) prior to the opening of the scheduled meeting.
  - 2. The Council must confirm and approve any proposed modifications to matters of Council business included in the preliminary agenda at least 4 calendar days (96 hours) prior to the opening of the scheduled meeting.
  - 3. Approval must be made by a majority of Council (at least three Council members) to finalize the Agenda for public distribution.
  - 4. The Agenda for each regular meeting of the Council must be made available to the public and the Council members at least 2 business days (48 hours) prior to the opening of the meeting in accordance with N.J.S.A. 10:4-8D. ~~The agenda may only include matters of Council business that have been presented or delivered to the Clerk no later than 96 hours prior to the start of the meeting and approved by the Mayor.~~
- B. Items of business, excluding ordinances and as otherwise provided by law, which the Borough Council has unanimously determined to be routine and which do not require discussions, shall be included under a single section of the agenda known as the "consent agenda." Such items may be adopted or approved, as the case may be, upon a single motion

and approval thereof by vote of a simple majority of the Borough Council. The consent agenda section of the agenda shall be preceded by an explanatory note substantially set forth as follows: "All matters listed under item Consent Agenda are considered routine by the Borough Council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired on any item, that item will be considered separately."

C. *Order of business.* All regular and special meetings of the Borough Council shall commence promptly at the hour designated, if practicable. Unless otherwise authorized by resolution or motion of Council, all business coming before the Council shall be heard and voted on in the following order:

- (1) Call to order.
- (2) Pledge of Allegiance.
- (3) Open Public Meetings Act statement.
- (4) Roll call.
- (5) Workshop discussion.
- (6) Presentations; receipt of bids or petitions.
- (7) Approval of minutes.
- (8) Public comments on agenda items. There is a five-minute limit on public comments on agenda items.
- (9) Ordinances. There is a five-minute limit on public comments for Ordinance introductions and for Ordinance adoptions.
- (10) Communications.
- (11) Resolutions.
- (12) Announcements.
- (13) Reports of Mayor and Council.
- (14) Public comments: There is a five-minute limit on comments
- (15) Executive Session (pursuant to N.J.S.A. 10:4-13 et seq.. if necessary).
- (16) Adjournment.

- D. *Call to order.* The Mayor shall call each meeting to order. In his or her absence, the President of the Council shall call the meeting to order and shall preside during the absence of the Mayor. The Mayor shall assume the chair as soon as he or she is in attendance at any meeting which may have been called to order in his absence, and the President of the Council shall thereupon relinquish the chair.
- E. *Presiding officer.* The presiding officer shall:
1. State the question and announce the result on all matters upon which the Council may vote.
  2. Rule on all questions of order, subject to appeal to the Council.
  3. Sign the minutes of all meetings of the Council.
- F. *Quorum call.* At the opening of each meeting of the Borough Council, the Clerk shall call the roll, and the names of those present shall be recorded in the minutes. Three members of the Council shall constitute a quorum for the conduct of business. If a quorum is not present by 1/2 hour after the appointed time for any meeting, the meeting shall be deemed adjourned.
- G. *Distribution and reading of minutes.* The Clerk shall, insofar as is practicable, prepare and distribute to the Borough Council the minutes of each meeting within 15 days of the meeting. The minutes of any meeting may be approved without reading whenever they have been distributed at least 24 hours prior to the time of approval. The Clerk shall promptly post a copy of the approved minutes in a public place in the Municipal Building and shall leave such copy posted for 30 days.
- H. *Committees.* The Rules of the Borough Council shall, insofar as applicable, govern meetings of the committee of the whole (work session meetings of Council) and other committees of the Council which may be appointed from time to time. Special committees of the Council for legislative purposes may be appointed by the Mayor with advice and consent of Council, pursuant to resolution. No special committee shall normally report on a matter referred to it at the same meeting at which reference is made, except by unanimous consent of the members of the committee.
- I. *Nominations and appointment.*
1. Nominations submitted by the Mayor will be considered at the work session meetings of the Borough Council and may be confirmed by Council resolution at the next regular meeting. In the alternative, Mayoral nominations ~~may~~ be acted upon at the next regular meeting thereafter. the timing of which is at the sole discretion of the Mayor.
  2. With respect to appointments to be made by the Borough Council, any member of the Council may nominate as many candidates as there are offices to be filled. The Council will consider such nominations in the committee of the whole, which will report to a regular meeting of Council. Where there is a single office to be filled, the sense opinions of the Council and the appointment shall be taken as to each nominee in alphabetical order, and the first nominee to receive a majority shall be deemed appointed. Where there is more

than one office to be filled, such as a board, commission or authority, the same procedure shall be followed with respect to each office separately until the total number of appointments to be made has been completed. In the discretion of the Chair, a group of nominations may be considered at once where there is no apparent division in the Council as to the nominees included in the group.

J. *Addressing Council.*

1. Persons other than Council persons may be permitted to address the Borough Council in the proper order of business. A person present may, upon recognition by the Chair, be heard in the order of petitions of citizens and public discussion. A person present may, upon recognition by the Chair and with the consent of a majority of the Council persons present, be heard at any other time. No person shall address any remark or question to any specific Council person nor to any other person present except by permission of the majority of the Council. A Council person may, through the Chair, respond to any communication or address received pursuant to this section.
2. Except upon consent of the Borough Council, each person addressing the Council pursuant to this section shall be required to limit his or her remarks to five minutes and shall at no time engage in any personally offensive or abusive remarks. The Chair shall call any speaker to order who violates any provision of this rule.

K. *Decorum.*

1. Each member of the Borough Council shall cooperate with the Chair in preserving order and decorum, and no member shall, by conversation or otherwise, delay or interrupt the proceedings of the Council, disturb any member while speaking or fail to abide by the orders of the Council or its presiding officer, except as specifically permitted by these rules.
2. Any person who shall disturb the peace of the Borough Council, make impertinent or slanderous remarks or conduct himself in a boisterous manner while addressing the Council shall be forthwith barred by the presiding officer from further remarks before the Council, except that if the speaker shall submit to proper order under these rules, permission for him to continue may be granted by majority vote of the Council.

L. Filing of reports, petitions and resolutions. All reports to the Borough Council and all resolutions and all petitions shall be filed with the Clerk and referenced in the minutes of the Council.

M. Adjournment. A motion to adjourn shall always be in order and shall be decided without debate.

N. Roll call votes; minutes. The vote upon every motion, resolution or ordinance shall be taken by roll call. The vote shall be "aye" or "nay," or words to that effect, of affirmative or negative by each member, and there shall be no further discussion following the commencement of the roll call. The vote of each member shall be entered on the minutes. Any member of the Borough Council may abstain from voting at any time. When the roll is called on any question, the silence of a Council person present shall constitute an



affirmative vote, unless he or she states that he or she abstains, in which event the abstention shall not count as a vote. "aye" or "nay." The question shall be determined by a majority of those members voting unless otherwise provided by law. The minutes of each meeting shall be signed by the officer presiding and by the Borough Clerk.

O. Rules.

1. Except as otherwise provided by this article or other provisions of the chapter or state statute, all meetings of the Borough Council shall be conducted in accordance with the provisions of the most recent edition of Robert's Rules of Order, Revised. The Borough Attorney, or his or her representative, shall serve as parliamentarian for all such meetings.
2. No rule or general regulation made by any department, board, officer, agency or authority of the Borough shall take effect until it is approved by the Mayor and filed with the Borough Clerk. The Borough Clerk shall maintain a current compilation of all such rules and regulations, which shall be available for public inspection in his or her office during business hours.

## **ARTICLE II            MAYOR**

### **§ 5-10            Election.**

The Mayor shall be elected at large by the voters of the municipality for a term of four years as provided by state law.

### **§ 5-10            Powers and Duties.**

- A. The Mayor shall be the chief executive of the Borough. He or she shall:
1. Enforce the Charter and all laws and ordinances in effect within the Borough.
  2. Exclusively supervise all of the departments of the Borough government and serve as department head in the absence of such an office or appointment existing.
  3. Ensure the efficient and effective operation of all of the departments of the Borough government, in accordance with general law, the Charter, this chapter and other municipal ordinances.
  4. Ensure that all inquiries to the Borough government are promptly assigned to the appropriate department for action.
  5. Appoint, with the advice and consent of the Borough Council, the Business Administrator, Chief Financial Officer, Auditor, Engineer, Tax Assessor, Tax Collector, Attorney, Borough Clerk, and a Treasurer, and all such other officers as may be provided by ordinance, and/or pursuant to N.J.S.A. 40:69A-122.
  6. Appoint a Finance Committee of the Borough Council, pursuant to N.J.S.A. 40:69A-123.

7. Appoint such other legislative committees of the Borough Council as he may deem necessary.
  8. Appoint all officers and employees where appointment or election is not otherwise provided for in the Charter or by general law, pursuant to N.J.S.A. 40:69A-124.
  9. Develop a Personnel Code establishing regulations governing Borough policies and procedures relating to the following:
    - a. Rights and duties of Borough employees as to hours of employment, vacations, leave, compensation and other terms and conditions of employment;
    - b. Guaranteeing that all appointments and promotions shall be based upon qualifications and demonstrated performance; and
    - c. Providing for a system of periodic evaluations of the performance of all temporary, part-time and full-time employees.
  10. Recruit and select persons qualified by either training or experience for the respective offices, positions or employments.
  11. Require each department, board, commission or other municipal body to make an annual report and such other municipal reports of its work as he may deem desirable.
  12. Report annually, within the first 60 days of the year and at such other times as he may deem desirable, to the Borough Council and to the public on the condition and on the requirements of the Borough and upon its problems of government
  13. Make such other reports to the Borough Council and to the public and such recommendations to Council for action as he may deem in the public interest.
  14. Provide a liaison with agencies of the United States, State of New Jersey and with official bodies of other municipalities on matters affecting the Borough and/or its citizens.
  15. Prepare the annual budget, with the assistance of the Treasurer and the Auditor and with the cooperation of the members of the Finance Committee of the Borough Council, and present the budget to the Council for consideration by January ~~31~~15 of each year, or as soon thereafter as practical.
  16. Call special or emergency meetings of the Borough Council as provided by the Charter and this chapter.
- B. The Mayor shall be a member of the Borough Council. He or she shall:
1. Participate in meetings of the Council and vote as other Council members.
  2. Preside over the meetings of the Council.

3. While presiding over meetings of the Council, have the right to move, second and to debate from the Chair and shall not be deprived of any right to vote or any other rights, powers or duties of a Council person by virtue of his or her presiding over the meeting.

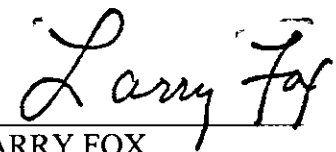
SECTION 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

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  
Borough Clerk

  
LARRY FOX  
Mayor

Introduced: June 14, 2022

Date of Hearing and Adoption: June 28, 2022