BOROUGH OF BRADLEY BEACH, COUNTY OF MONMOUTH

ORDINANCE 2026-24

AN ORDINANCE AMENDING CHAPTER 450 ENTITLED "ZONING" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO CREATE NEW SECTION 450-72 ENTITLED "RELIEF FOR GROUNDWATER COMPLIANCE" AND TO AMEND APPLICABLE DEFINITIONS

Councilman Karp offered the following Ordinance and moved its introduction:

WHEREAS, on April 7, 2026, the Borough of Bradley Beach (the "Borough") adopted Ordinance 2026-19, which amended the Borough's Land Use Chapter 450 to add/revise definitions in Section 450-4, to add new Section 450-70 *et seq.* regarding prohibition of sub-grade garages, and to add new Section 450-71 *et seq.* requiring a minimum vertical separation of three (3) feet between the lowest basement or cellar floor elevation and the documented seasonal high groundwater table; and

WHEREAS, the Borough determines that it is necessary to further amend the Zoning Code and related definitions with respect to the topics raised herein;

WHEREAS, the Borough has received the Resolution of the Land Use Board of the Borough of Bradley Beach (the "Board") dated May 21, 2026, finding that this Ordinance 2026-24 is substantially consistent with the Borough's Master Plan;

WHEREAS, the Borough has received the revisions of Ordinance 2026-24 as recommended by the Board and finds them to be appropriate grammatical, typographical and clerical revisions for internal consistency of the definitions and applicability within the Code and further finds the revisions to Ordinance 2026-24 are appropriate and do not affect the ability to duly conduct a second reading for final adoption and passage of Ordinance 2026-2 as revised.

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 450-4: "Definitions": "General Regulations Applicable to All Zones" of Chapter 450 entitled "Zoning" 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 450: ZONING

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ARTICLE II: TERMINOLOGY

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§ 450-4 Definitions.

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

* * *

BASEMENT

[Delete all other language]

A. A space having no more than one-half (1/2) of its floor-to-ceiling height above the average level of the adjoining finished grade and with a floor-to-ceiling height of at least seven (7) feet. A basement shall also comply with all flood hazard and groundwater clearance requirements. No basement shall be used for vehicle parking or constructed in a manner that permits vehicle storage below finished grade, except where expressly permitted by Chapter 450 of the Borough Code.

B. Notwithstanding the foregoing, the limitation that no more than one-half (1/2) of the floor-to-ceiling height be above the average level of the adjoining finished grade may be exceeded only where such condition is the direct result of elevation necessary to comply with groundwater separation requirements and where relief is granted pursuant to Section 450-72 *et seq.* (Relief for Groundwater Compliance).

C. A basement may be used for habitable or non-habitable purposes, provided that such space complies with all applicable provisions of Chapter 450, the New Jersey Uniform Construction Code, and any other applicable laws and regulations. No basement shall be used as a separate dwelling unit unless expressly permitted by Chapter 450 of the Borough Code.

D. Any increase in height or exposure resulting from relief granted pursuant to Section 450-72 *et seq.* shall not be construed to permit additional stories, increased habitable floor area beyond what is otherwise permitted, or reclassification of the space for zoning purposes.

E. For purposes of enforcement, the classification of a basement shall be determined based upon its physical characteristics and actual or intended use, upon this definition, and upon other applicable provisions of Chapter 450 of the Borough Code, regardless of how such space may be labeled on plans, applications, or other documents submitted to the Borough.

* * *

CELLAR

[Delete all other language]

A. A space having no more than one-half (1/2) of its floor-to-ceiling height above the average level of the adjoining finished grade and with a floor-to-ceiling height of less than seven (7) feet. A cellar shall also comply with all flood hazard and groundwater clearance requirements. No cellar shall be used for vehicle parking or constructed in a manner that permits vehicle storage below finished grade, except where expressly permitted by Chapter 450 of the Borough Code.

B. Notwithstanding the foregoing, the limitation that no more than one-half (1/2) of the floor-to-ceiling height be above the average level of the adjoining finished grade may be exceeded only where such condition is the direct result of elevation necessary to comply with groundwater separation requirements and where relief is granted pursuant to Section 450-72 *et seq.*

C. A cellar shall be non-habitable space and shall not be used for sleeping, living, or dwelling purposes. Usage of a cellar shall be limited to storage, mechanical equipment, building systems, utilities, and incidental storage as defined in Section 450-4.

D. Any increase in height or exposure resulting from relief granted pursuant to Section 450-72 *et seq.* shall not be construed to permit conversion of a cellar to a basement or habitable space, nor to expand its usage beyond what is stated in this definition.

E. For purposes of enforcement, the classification of a cellar shall be determined based on its physical characteristics and actual or intended use, upon this definition, and upon other applicable provisions of Chapter 450 of the Borough Code, regardless of how such space may be labeled on plans, applications, or other documents submitted to the Borough.

* * *

CRAWL SPACE

A. A space having no more than one-half (1/2) of its floor-to-ceiling height above the average level of the adjoining finished grade and having a floor-to-ceiling height of not more than five (5) feet. A crawl space shall also comply with all applicable flood hazard and groundwater clearance requirements. No crawl space shall be used for vehicle parking or constructed in a manner that permits vehicle storage below finished grade.

B. Notwithstanding the foregoing, the limitation that no more than one-half (1/2) of the floor-to-ceiling height be above the average level of the adjoining finished grade may be exceeded only where such condition is the direct result of elevation necessary to comply with groundwater separation requirements and where relief is granted pursuant to this Section 450-72 *et seq.*

C. A crawl space shall be non-habitable space and shall not be used for living, sleeping, or working purposes. Usage of a crawl space shall be limited to utilities, mechanical equipment, building systems, and incidental storage as defined in Code Section 450-4.

D. A crawl space shall not be finished, improved, or altered in a manner that would permit occupancy or habitation, including but not limited to the installation of drywall, finished flooring, ceiling materials, or other improvements indicative of habitable or organized storage space.

E. Any increase in height or exposure resulting from relief granted pursuant to Section 450-72 *et seq.* shall not be construed to permit conversion of a crawl space to a basement, cellar, or habitable space, nor to expand its usage as set forth in this definition.

F. For purposes of enforcement, the classification of a space as a crawl space shall be determined based on its physical characteristics and actual or intended use, upon this definition, and upon other applicable provisions of Chapter 450 of the Borough Code,

regardless of how such space may be labeled on plans, applications, or other documents submitted to the Borough.

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INCIDENTAL STORAGE

A. The temporary and limited storage of personal property that is related to and/or necessary to the principal use of the structure and does not involve the construction of finished or enclosed storage areas or the use of such space for regular, habitual, or commercial storage purposes.

B. The following items shall not be considered as permissible "incidental storage":

(1) Any item that is indicative of habitation or occupancy in the space in which it is located;

(2) Any item that requires the installation of shelving, partitions, flooring, or other improvements intended to facilitate ongoing or organized storage;

(3) Any item that constitutes hazardous materials;

(4) Any item that interferes with flood vents, access, or building systems.

SECTION 2. Chapter 450 entitled "Zoning" of the Revised General Ordinances of the Borough of Bradley Beach, Article XIII: "Sub-Grade Garages and Basements", is augmented as follows:

CHAPTER 450: ZONING

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ARTICLE XIII: SUB-GRADE GARAGES AND BASEMENTS

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§ 450-72 Relief for Groundwater Compliance.

A. Applicability. Notwithstanding any maximum limitations on building height, story height, basement height, cellar height, and crawl space height, this Section shall apply to any structure required to comply with Section 450-71(B)(1).

B. Building Height Adjustment Permitted. Where compliance necessitates raising a structure:

(1) The increase in height must be directly attributable to groundwater compliance; and

(2) Total building height shall not exceed twenty-nine (29) feet and thirty-seven (37) feet, depending on lot size.

C. Limitations on Relief. Relief shall be limited strictly to the minimum height necessary and:

(1) Shall not permit additional stories.

(2) Shall not be utilized to increase interior cubic volume.

(3) Ceiling heights shall not exceed:

(i) Basement: eight (8) feet.

(ii) Cellar: seven (7) feet.

(iii) First Floor: nine (9) feet.

(iv) Second Floor: eight (8) feet.

(v) Half-Story: eight (8) feet.

D. Documentation Required. Applicants shall submit:

(1) Zoning Permit Application;

(2) Certified Groundwater Data;

(3) Architectural Cross-Sections Showing Ceiling Heights; and

(4) Grading Plans demonstrating minimum necessary increase(s);

(5) Such other items and/or certifications that may be reasonably required of the applicant.

E. Review Authority. All applications shall be filed with the Borough's Zoning Officer, who shall have the authority to review and approve or deny same if compliant under this Section.

F. Definitions related to Section 450-72 are set forth in Chapter 450-4.

SECTION 3. 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 4. 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 5. 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 and 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 6. 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

Alan Gubitosi
Mayor

Introduced: April 21, 2026

Date of Hearing and Adoption: June 4, 2026