June 9, 2020

BOROUGH OF BRADLEY BREACH, MONMOUTH COUNTY

RESOLUTION NO. 2020-145

RESOLUTION TEMPORARILY RELAXING ENFORCEMENT OR MODIFYING PROVISIONS OF CHAPTER 9: "TRAFFIC" & CHAPTER 277: "LICENSES AND PERMITS" & CHAPTER 286: "LITTERING; SOLID WASTE COLLECTION" & CHAPTER 303: "MERCANTILE LICENSES" & CHAPTER 324: "OUTDOOR CAFES AND RESTAURANTS" & CHAPTER 325: "OUTDOOR MERCHANDISE DISPLAY" & CHAPTER 339: "PARKS AND RECREATION AREAS" & CHAPTER 348: "PORTABLE STORAGE UNITS AND DUMPSTERS" & CHAPTER 393: "SPECIAL EVENTS" & CHAPTER 450: "ZONING" TO PROVIDE LOCAL BUSINESSES WITHIN THE BOROUGH WITH EXPANDED CAPACITY AND ADDITIONAL SPACE TO PRACTICE PROPER SOCIAL DISTANCING DURING THE COVID-19 CRISIS AND THE BOROUGH'S RECOVERY THEREFROM

Mayor Engelstad offered the following Resolution and moved its adoption:

WHEREAS, the Governor of the State of New Jersey has issued Executive Orders imposing restrictions upon the operation of businesses within the entire State of New Jersey during the COVID-19 pandemic crisis; and

WHEREAS, the Mayor and Emergency Management Coordinator of the Borough of Bradley Beach have likewise proclaimed that a local state of emergency, as thereafter amended, within the Borough of Bradley Beach (the "Borough") in response to the COVID-19 crisis; and

WHEREAS, although the COVID-19 pandemic crisis and state of emergency continues at present, Federal, State, County and other authorities are beginning to lift certain restrictions, and discuss the possibility of lifting other restrictions in the near future; and

WHEREAS, in preparation for the lifting of restrictions on businesses within the State of New Jersey, the Borough's Mayor and Council believe it prudent for the Borough to assist Bradley Beach businesses in re-opening and to provide maximum opportunities for social distancing as said businesses do so for the safety and general welfare of Borough residents; and

WHEREAS, the Borough finds that the temporary relaxation and modification of certain regulations within the Borough, simultaneously and in accordance with the Governor's lifting of state-wide restrictions and the guidelines arising therefrom, will provide businesses with expanded space to operate for the protection of business owners, employees, customers, and Borough residents during what is likely to be an uncertain time;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Bradley Beach as follows:

(1) Nothing herein shall be construed or interpreted inconsistently with or in violation of any Executive Order issued by the Governor of the State of New Jersey, or any other law, rule, regulation, guideline, directive, or notice from any authority to which the Borough is subject or would otherwise be bound or guided.

(2) Upon the lifting of restrictions upon businesses, and in accordance with any guidelines issued by Federal, State, County and other authorities, businesses within the Borough may temporarily expand their existing operations through the use of outdoor space(s), including, but not limited to, backyards, sideyards, parking lots, and patios, to provide additional space for proper social distancing during the re-opening of said businesses.

(3) Upon the lifting of restrictions upon businesses, and in accordance with any guidelines issued by Federal, State, County and other authorities, businesses within the Borough may temporarily expand their existing operations through the cooperative use or combination(s) of their existing space and operations for purposes that enhance social distancing, including, but not limited to, one business allowing another to use unneeded space on its premises or two businesses cooperating to dedicate pick-up and drop-off space for customers.

(4) Upon the lifting of restrictions upon businesses, and in accordance with any guidelines issued by Federal, State, County and other authorities, businesses within the Borough may temporarily expand their existing operations into existing or adjacent indoor space(s) that may be vacant or otherwise prohibited from such use(s) for non-life hazard and non-safety reasons under the Borough Code.

(5) Upon the lifting of restrictions upon businesses, and in accordance with any guidelines issued by Federal, State, County and other authorities, the Borough shall temporarily make certain Borough-owned outdoor spaces available to businesses to utilize, including, but not limited to, educational or enrichment programs, recreational groups, health and wellness classes, and children's camps, for purposes that enhance social distancing for said activities.

(6) Upon the lifting of restrictions upon businesses, and in accordance with any guidelines issued from Federal, State, County and other authorities, the Borough shall temporarily permit businesses to display additional signage and advertisements in furtherance of the purposes set forth herein.

(7) Any business within the Borough may seek approval for the use(s) and/or operation(s) described hereinabove through the process described for the submission of a Special Events Permit Application under Chapter 393 of the Borough Code, and all provisions of said Chapter 393 shall be applicable thereto, with the following modifications:

(a) Section 393-1 shall be modified to provide that any Borough business or organization seeking approval for any use(s) and/or operation(s) described in paragraphs 2 through 6 of this Resolution shall do so by applying for a permit in accordance with Chapter 393, as modified by this Resolution.

(b) Section 393-2(A) shall be modified to provide that any Borough business or organization seeking approval for any use(s) and/or operation(s) described in paragraphs 2 through 6 of this Resolution shall file an application with the Borough Administrator, which shall contain all information required by subsections 393-2(A)(1) through (10).

(c) Section 393-2(B) shall be modified to provide that all applications made under authority of this Resolution shall be reviewed by the Borough Administrator, in consultation with the Zoning Officer, Construction Official, Fire Official, and Chief of Police.

(d) Section 393-3 shall be modified to provide that the initial decision on all applications made under authority of this Resolution shall be determined by the Borough Administrator, after the aforementioned review with Borough officials.

(e) Section 393-3 shall be modified to provide that any applicant initially denied a permit by the Borough Administrator for any reason(s) not related to fire, construction, criminal, or motor vehicle codes and/or any other law, rule, regulation, guideline, directive, or notice from any authority to which the Borough is subject or would otherwise be bound or guided shall have the right to file an appeal directly to the Mayor & Council within five (5) business days of receiving the initial determination from the Borough Administrator, which appeal shall be heard at the next regularly scheduled meeting of the Mayor & Council.

(f) In connection with the review and determination of any applications made or appeals taken under the authority of this Resolution, the factors set forth in Section 393-4 shall be considered, but shall not be exclusive of any other review by the Zoning Officer, Construction Official, Fire Official, or Chief of Police.

(g) Pursuant to the authority conferred by Section 393-4(B), the Mayor & Council hereby waive all municipal fees, costs, and expenses in connection with any and all applications made under the authority of this Resolution.

(h) Section 393-4 shall be modified to provide that all applicants must demonstrate at least $1,000,000 in satisfactory insurance coverage to qualify for a permit under the authority of this Resolution.

(i) Section 393-5 shall be modified to provide that the Borough Administrator, Zoning Officer, Construction Official, Fire Official, and Chief of Police are hereby granted the concurrent power to revoke any permit issued under the authority of this Resolution in their sole discretion, subject to appeal directly to the Mayor & Council within five (5) business days of revocation, which appeal shall be heard at the next regularly scheduled meeting of the Mayor & Council.

(i) Section 393-6 shall be inapplicable to any permit issued under the authority of this Resolution.

(8) The Mayor and Council hereby instruct and direct the Borough Administrator, Zoning Officer, Construction Official, Fire Official, and Chief of Police to interpret and construe any and all applicable provisions and conditions of Chapter 9: "Traffic" and Chapter 277: "Licenses and Permits" and Chapter 286: "Littering, Solid Waste Collection" and Chapter 303: "Mercantile Licenses" and Chapter 324: "Outdoor Cafes and Restaurants" and Chapter 325: "Outdoor Merchandise Display" and Chapter 339: "Parks and Recreation" and Chapter 348: "Portable Storage Units and Dumpsters" and Chapter 393: "Special Events" and Chapter 450: "Zoning" to further the purposes set forth in this Resolution, provided that nothing herein shall be construed to limit the aforementioned Officers' lawful jurisdiction(s) or interfere with the aforementioned Officers' duties and responsibilities according to law.

(9) This Resolution shall take effect immediately for the purposes of receiving applications in anticipation of the potential re-opening of businesses, provided, however, that no permits shall be issued and no modified business operations shall commence hereunder until such time as authorized by Federal, State, County and other applicable authorities.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the Borough Administrator, Zoning Officer, Construction Official, Fire Official, Chief of Police, and as many Bradley Beach businesses as is feasible for the Borough Administrator.

Seconded by Councilman Weber and adopted upon the following vote:

	AYES	NAYS	ABSTAIN	ABSENT
Mr. Bonnell	X			
Mr. Gubitosi	X			
Mr. Sexsmith	X			
Mr. Weber	X			
Mayor Engelstad	X			

CERTIFICATION

I, Erica Kostyz, Borough Clerk of the Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Mayor and Council at the June 9, 2020 meeting.

Erica Kostyz

Erica Kostyz
Municipal Clerk