

BOROUGH OF BRADLEY BEACH, COUNTY OF MONMOUTH

ORDINANCE 2026-24

**ORDINANCE AMENDING CHAPTER 450: “ZONING” OF THE BOROUGH’S
REVISED GENERAL ORDINANCES TO CREATE NEW SECTION 450-72:
“RELIEF FOR GROUNDWATER COMPLIANCE” TO PROVIDE LIMITED
BUILDING HEIGHT RELIEF WHERE REQUIRED FOR GROUNDWATER
COMPLIANCE AND TO CLARIFY APPLICABLE DEFINITIONS.**

Mayor Gubitosi offered the following Ordinance and moved its introduction:

WHEREAS, the Borough of Bradley Beach (the “Borough”) recently adopted an Ordinance whereunder a minimum vertical separation of three (3) feet is required between the lowest basement or cellar floor elevation and the documented seasonal high groundwater table; and

WHEREAS, compliance with this requirement may necessitate elevating structures above what would otherwise be permitted under Chapter 450: “Zoning”; and

WHEREAS, strict application of maximum building height limits may create hardship and discourage compliance; and

WHEREAS, the Borough has identified ambiguity and inconsistencies and omissions in certain definitions of “Basement,” “Cellar,” and related terms, including the absence of definitions for “Crawl Space” and “Incidental Storage”; and

WHEREAS, the Borough finds it necessary to clarify how groundwater-related height relief affects classification of such spaces;

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” of Article IV: “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

* * *

ARTICLE II: TERMINOLOGY

* * *

§ 450-4 Definitions.

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

* * *

BASEMENT

~~A story partly underground having more than one-half (1/2) of its height below the average level of the adjoining ground. A basement shall not be used for habitable space unless expressly permitted by the Uniform Construction Code and shall also comply with all flood hazard and groundwater clearance requirements.~~

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 seven (7) feet. A basement shall also comply with all flood hazard and groundwater clearance requirements.

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 §450-72 (Relief for Groundwater Compliance).

A basement may be used for habitable or non-habitable purposes, provided that such space complies with all applicable provisions of this Ordinance, 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 this Ordinance.

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 this Chapter.

Any increase in height or exposure resulting from relief granted pursuant to this Section 450-72 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.

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

* * *

CELLAR

~~A space having more than one-half (1/2) of its height below the average level of the adjoining ground. No cellar shall be used for vehicle parking or constructed in a manner that permits vehicle storage below grade.~~

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.

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.

A cellar shall be considered non-habitable space and shall not be used for sleeping, living, or dwelling purposes. Permitted uses shall be limited to storage, building systems, and utilities. 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 this ordinance.

Any increase in height or exposure resulting from relief granted pursuant to this Section 450-72 shall not be construed to permit conversion of a cellar to a basement or habitable space, nor to expand its permitted uses.

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

* * *

CRAWL SPACE

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.

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.

A crawl space shall be considered non-habitable space and shall not be used for living, sleeping, or working purposes. Permitted uses shall be limited to access, utilities, mechanical equipment, building systems, and incidental storage, as defined herein.

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. No crawl space shall be used for vehicle parking or storage.

Any increase in height or exposure resulting from relief granted pursuant to this Section 450-72 shall not be construed to permit conversion of a crawl space to a basement, cellar, or habitable space, nor to expand its permitted uses.

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

* * *

INCIDENTAL STORAGE

The temporary and limited storage of personal property that is subordinate and accessory 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.

Incidental storage shall be characterized by all of the following:

- It is minimal in quantity and does not occupy a substantial portion of the space;
- It does not include furniture, appliances, or materials indicative of habitation or occupancy;
- It does not involve the installation of shelving, partitions, flooring, or other improvements intended to facilitate ongoing or organized storage;
- It does not include the storage of hazardous, perishable, or flood-susceptible materials;
- It does not interfere with required flood vents, access, or building systems; and
- It is not associated with any commercial activity or separate dwelling unit.

SECTION 2. Chapter 450 entitled “Zoning” of the Revised General Ordinances of the Borough of Bradley Beach is hereby augmented with *new* Article XIII: “Sub-grade Garages and Basements” as follows:

CHAPTER 450: ZONING

* * *

ARTICLE XIII: SUB-GRADE GARAGES AND BASEMENTS

* * *

§ 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 necessary and:
 - (1) Shall not permit additional stories.
 - (2) Shall not be utilized to increase interior cubic volume.
 - (3) Ceiling heights shall not exceed:

- (a) Basement: eight (8) feet.
- (b) Cellar: seven (7) feet.
- (c) First Floor: nine (9) feet.
- (d) Second Flor: eight (8) feet.
- (e) 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).

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 under this Section.

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 & 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: