

**BOROUGH OF WILDWOOD CREST  
COUNTY OF CAPE MAY  
STATE OF NEW JERSEY**

**ORDINANCE NO. 1412**

**AN ORDINANCE OF THE BOROUGH OF WILDWOOD  
CREST, AMENDING AND SUPPLEMENTING CHAPTER 17  
OF THE CODE OF THE BOROUGH OF WILDWOOD  
CREST ESTABLISHING UNIFORM REGULATIONS FOR  
THE CONSTRUCTION AND REPAIR OF BULKHEADS**

**WHEREAS**, the Board of Commissioners of the Borough of Wildwood Crest has determined that it is necessary and proper for good government, order and the protection of persons and property, and for the preservation of the public health, safety and welfare of the Borough and its inhabitants to supplement and amend Chapter 17 of the Code of the Borough of Wildwood Crest which regulates bulkheads, their construction, reconstruction, or repair of existing or new bulkheads within the Borough of Wildwood Crest; and

**WHEREAS**, the condition and height elevation of bulkheads in the Borough of Wildwood Crest significantly impacts the frequency of tidal flooding, danger to persons, public and private property and the storm and tidal flooding mitigation policy of the Borough; and

**WHEREAS**, bulkheads below elevation 6.0 feet NAVD 1988 pose a significant threat to the flood frequency of the Borough and danger to persons and public and private property; and

**WHEREAS**, it is the purpose and intent of this ordinance to establish uniform regulations for the construction, reconstruction, or repair of existing or new bulkheads within the Borough of Wildwood Crest and to further the policy of the Borough to mitigate storm and tidal flooding and to promote the health, safety and welfare of the residents of the Borough and to protect public and private property within the Borough.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the Borough of Wildwood Crest in the County of Cape May and State of New Jersey, as follows:

**Section 1.** Ordinance No. 1162, adopted March 13, 2013 and Ordinance No. 1182, adopted on December 27, 2013, and all ordinances or parts thereof that have been codified in the Code of the Borough of Wildwood Crest as Chapter 17 are hereby repealed and replaced with the following:

**17-1. Purpose.**

It is the purpose and intent of this Chapter to establish uniform regulations for the construction, reconstruction, or repair of existing or new bulkheads and to require the elevation of all bulkheads within the Borough of Wildwood Crest to further the policy of the Borough to mitigate storm and tidal flooding and to promote the health, safety and welfare of the residents of the Borough and protect persons and public and private property within the Borough.

**17-2. Applicability.**

- A. This Chapter applies to all existing bulkheads in the Borough as well as all bulkheads that are newly constructed, reconstructed, replaced, renovated or repaired.
- B. Any property owner of a property on which a principal structure, or a bulkhead, is demolished or constructed, or makes a "substantial improvement", or that requires compliance with Chapter 36 Flood Hazard Areas, shall be required to bring the existing bulkhead into compliance with this Chapter. "Substantial improvement"

shall mean any reconstruction, rehabilitation, addition, or other improvement of a principal structure, or bulkhead, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure, or replacement cost of the bulkhead before the start of construction of the improvement. This term includes structures which have incurred damage regardless of the actual repair work performed.

### **17-3. Permits.**

- A. Permit required. No person or legal entity shall construct, reconstruct, renovate or repair any bulkhead within the Borough without first obtaining and having in possession a valid permit to do such work that has been issued by the office of the Construction Official, upon approval of the Borough Engineer.
  
- B. Permit Application.
  - (1) Applications for bulkhead permits shall be made on an application form obtained from the Construction Official. Completed applications shall be returned to the Construction Official with the required fee along with two (2) copies of the following items:
    - (a) Plans and specifications of the bulkhead that have been prepared, signed and sealed by a New Jersey licensed professional engineer.
    - (b) A property survey, prepared, signed and sealed by a New Jersey licensed professional land surveyor.
    - (c) Authorization for the New Jersey Department of Environmental Protection and any other state or federal agency having jurisdiction over the property affected by the proposed work.
    - (d) Proof of notice of application to adjoining property owners.
  - (2) The Borough Engineer may relax or waive any or all of the requirements that are set forth above within the application for a permit that pertains to reconstruction, renovation or repair work for which the cost of completion is less than \$10,000.00; however, in relaxing or waiving any such requirements, the Borough Engineer shall have the authority to require the submission of such plans, drawings and contract documents as the Borough Engineer, in his sole and absolute discretion, determines will accurately depict the reconstruction, renovations or repair work to be performed.
  - (3) The Borough Engineer shall review the application and plans and grant or deny the application within 20 business days upon receipt of a complete application.
  
- C. Notice of application.
  - (1) Notice of application for a bulkhead permit, the form of which is to be obtained from the Construction Official, shall be given by the applicant to the owners of all real property, as shown on the current tax duplicate, within 100 feet of either side of the property along the bay front or beach front. Notice shall be given by mailing a copy thereof by regular, first class mail and by certified mail to the property owner at the address as shown on the said current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association because of its

ownership of common elements or areas located within 100 feet of either side of the property along the bay front or beach front which is the subject of the bulkhead application may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas.

- (2) Upon written request of an applicant, the Tax Assessor, within seven days, shall make and certify a list from said current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to this section. A sum of \$25.00 may be charged for preparation of such list.
- D. Permit issuance. Upon receipt by the Construction Official of an application for a bulkhead permit, the Construction Official immediately shall transmit copies of the application and all accompanying documents to the Borough Engineer for review. No permit shall be issued by the Construction Official unless the permit is approved for issuance by the Borough Engineer. In the event that, upon review of the permit application, deficiencies are noted by the Borough Engineer, the Borough Engineer shall provide written notice, by certified mail, of the deficiencies to the applicant at the address set forth on the application and the applicant then shall be afforded the opportunity to correct any application deficiencies.
- E. Permit fee. The nonrefundable permit fee shall be calculated in the following manner: for new construction, renovation, reconstruction and repairs: \$350.00 for the first 60 feet of bulkhead to be constructed, and thereafter, \$20.00 per foot or any portion thereof.
- F. Review and Inspection fee. The inspection and review fee shall be \$750.00 for any bulkhead up to 60 linear feet, and thereafter, \$50.00 per foot or any portion thereof.
- (1) The review and inspection fees recited above is a minimum which must accompany the application. An application shall not be deemed complete until the review and inspection fee required has been paid.
  - (2) The review and inspection fee shall be made payable to the Borough of Wildwood Crest.
  - (3) If the initial review and inspection fee submitted by the applicant becomes insufficient due to excessive review of deficient plans or the number of required inspections increases due to deficient construction methods, then additional funds shall be required to be submitted by the applicant. The amount of additional funds needed shall be determined by the Borough Engineer. Additional funds required by the Borough Engineer shall be applied to professional costs charged to the Borough by the Borough Engineer for services.
  - (4) If the applicant has failed to pay any amounts due or has begun work prior to the issuance of a permit, the Borough shall stop construction until such amounts are paid. No construction permit or certificate of occupancy may be issued if such amounts are due and payable. In addition, all fees which are due and owing shall become a lien on the premises, with respect to which said charges are required, and shall remain so until paid. Said overdue charges shall accrue the same interest from time to time as taxes upon real estate in the Borough. The Borough shall have the same remedies for the collection thereof with interest, costs, and penalties as it has by law for the collection of taxes upon real estate.
  - (5) The applicant shall agree to pay all reasonable costs associated with Borough shall agree in writing to pay all reasonable costs for professional

review and processing of the application and for inspection of the improvements beyond the initial application charge.

- G. Appeal of permit denial. Any applicant aggrieved by the denial of a bulkhead permit may appeal the permit denial by submitting to the Borough Clerk written correspondence appealing the permit denial. Such written appeal correspondence shall describe the reason for the appeal. Such written appeal correspondence shall be submitted to the Borough Clerk within 20 days of the permit denial. Upon receipt of the appeal correspondence, the Borough Clerk shall transmit to the Borough Administrator copies of the permit application, all attachments thereto and any copies of any documents that have been generated by the Borough Engineer in connection with review of the permit application. Thereafter, upon direction by the Borough Administrator, the Borough Clerk shall schedule a date for the hearing of the appeal with a Hearing Officer, and notice of the hearing date shall be provided to the permit applicant. In all instances the Borough Clerk shall endeavor to schedule the appeal hearing date not later than 30 days after receipt of the appeal correspondence. The hearing of the appeal shall be conducted by the Hearing Officer. The applicant shall be permitted to produce evidence to the Hearing Officer in support of the permit application. The Hearing Officer may consider evidence presented by the Borough Engineer or any other individual that the Hearing Officer deems to have relevant information. The decision of the Hearing Officer to approve or deny the permit application shall be through adoption of a formal resolution.

#### **17-4. Notification of commencement of construction; inspections.**

- A. The permittee shall provide to the Borough Engineer and to the Borough Construction Official notice of commencement of construction not less than two (2) business days in advance of said commencement of construction. Not less than ten (10) calendar days in advance of commencement of construction, the permittee shall provide notice of commencement of construction, on a form to be obtained from the Construction Official, to all property owners to whom the permittee would be required to provide notice of bulkhead permit application if the permittee were, at the time, making application for a bulkhead permit. Such notice shall be given in the same manner as is required for notices of permit application.
- B. The Borough Engineer shall inspect the materials delivered to the job site and verify that they are in conformance with the permit issued for that work, in size, quantity and quality. If such materials do not conform to permit requirements, they shall be marked as "rejected" and removed from the job site by the permittee and shall not be incorporated into the bulkhead construction.
- C. Prior to backfilling, the Borough Engineer shall make periodic visits to the job site (up to 3) to verify that the work is proceeding in accordance with permit requirements.
- D. Prior to final acceptance, the permittee shall provide as-built plans prepared by a New Jersey Licensed Professional Land Surveyor to demonstrate compliance with the approved plan including but not limited to the minimum bulkhead height.

#### **17-5. Notification final inspection.**

Prior to the backfilling of any bulkhead construction, reconstruction, renovation or repair, the Borough Engineer shall perform an inspection to ascertain that the bulkhead has been constructed pursuant to the plans that were submitted with the permit application. Written notice of project completion shall be given to the Borough Engineer and to the Construction Official within seven (7) business days of substantial completion of the project, but prior to backfilling, and that written notification shall be accompanied by a certification from a licensed engineer or land surveyor of the elevations of the completed bulkhead height. If the Borough Engineer determines that the work that was performed pursuant to the

bulkhead permit and the subject bulkhead fail to comply with the plans, drawings or documents that were submitted with the permit application or fail to comply with the provisions of this Chapter, then written notice of final inspection failure shall be transmitted by the Borough Engineer by regular first class mail to the permittee at the address set forth on the permit application. The notice of final inspection failure shall detail the reasons for inspection failure. Permittees shall correct all deficiencies that resulted in final inspection failure within 20 days of the date of the written notice of final inspection failure. If, upon the expiration of those 20 days, the bulkhead is not approved upon inspection by the Borough Engineer then the permittee is deemed to be in violation of the duty to maintain and repair the subject bulkhead as established by this Chapter.

#### **17-6. Bulkhead specifications.**

All bulkheads constructed, reconstructed renovated or repaired within the Borough, and as further subject to the provisions of 17-8 below, shall conform to the following minimum specifications:

- A. All new bulkheads shall be designed by a New Jersey licensed professional engineer.
- B. All piles shall have a butt diameter of not less than 12 inches and a tip diameter of not less than eight inches.
- C. All piles will be Douglas Fir or Southern Yellow Pine and shall be treated with an acceptable preservative for marine construction according to the latest American Wood Preservers' Association (A.W.P.A.) specifications.
- D. All new sheet piles shall be vinyl unless approved by the Borough Engineer. Wales shall be Douglas Fir or Southern Yellow Pine. Wood sheet piles shall be a minimum of two inches thick. Wood sheet piles shall be constructed in two rows with staggered joints. All timber materials shall be treated with an acceptable preservative designed for use in a salt-water environment.
- E. All components of the bulkhead system up to the minimum required elevation shall be constructed to be watertight. Watertight may include backfilling up against the landward side of the bulkhead, water stop sealants for steel and PVC sheet piles, continuous and solid landward capping and any other methods approved by the Borough Engineer.
- F. All bulkhead construction, reconstruction, renovation or repair shall be constructed to the property line and shall tie in with bulkheading on the adjoining property and said tie in shall be made watertight. Where no adjoining bulkhead exists, the bulkhead shall be constructed in such manner that it can be tied in with any future adjoining bulkhead.
- G. All hardware shall be hot-dipped galvanized steel in accordance with latest standards for salt-water applications.
- H. All outfall piping shall be fitted with a tide-control device that is approved by the Borough Engineer.
- I. The means and methods for outfall piping extensions that are required to accommodate the new bulkhead shall be approved by the Borough Engineer.
- J. Bulkhead construction, reconstruction, renovation or repair shall not adversely affect adjoining property.
- K. All existing utilities shall be protected from damage during any work performed pursuant to a bulkhead permit. The bulkhead permittee shall be responsible for

obtaining current “utility markout” from all appropriate state and local agencies prior to commencement of work.

- L. Deviations from construction materials set forth herein are allowed so long as all specifications and technical data concerning the proposed construction material are submitted to the Borough and are approved in writing by the Borough Engineer prior to installation. The use of any construction material that is not specifically set forth above or approved by the Borough Engineer is strictly prohibited.
- M. All design materials herein shall be subject to the requirements of the NJDEP and USACOE.

#### **17-7. Bulkhead height.**

- A. Bay-front bulkhead. The top elevation of any new bay-front bulkhead to be constructed, or bulkhead that is reconstructed or substantially improved, shall be set at a minimum elevation of 8.00 NAVD 1988.
- B. Ocean-front bulkhead. The top elevation of any ocean-front bulkhead to be constructed, reconstructed or substantially improved, shall be set at a minimum elevation of 13.00 NAVD 1988 unless otherwise required by the New Jersey Department of Environmental Protection.

#### **17-8. Maintenance: duty to correct and repair.**

All bulkheads within the Borough shall be maintained in such a condition so that they shall pose no danger to the health, safety or welfare of the residents of the Borough or to public or private property within the Borough. Bulkheads shall be kept in such a state so as to prevent erosion or damage to abutting, adjacent or adjoining properties. Whenever a bulkhead has deteriorated, suffered damage, or is lower than adjoining bulkheads in the area, which results in the bulkhead being overtopped by tidal and flood waters, to such a degree that a danger or damage to the property or adjoining properties or other properties in the area is present, the Borough Engineer, Construction Official, Zoning Official or Code Enforcement Officer shall notify the property owner, in writing, by certified mail to the address that is set forth on the Borough’s tax records, of the nature of the deterioration or damage and require the owner to make the necessary repairs. When notified by the Borough of a deteriorated or dangerous bulkhead, a property owner shall submit a plan of corrective action to the Borough no later than thirty (30) days from the receipt of this notice. Upon approval of the plan of corrective action by the Borough Engineer, the property owner shall complete all necessary repairs within one hundred (120) days. If permits are required from state or federal government agencies, such permits shall be immediately applied for upon receipt of Borough approval. Upon issuance of the bulkhead permit and approval of the plan of corrective action, the property owner immediately shall complete all necessary corrections and repairs. In the event that the property owner fails to submit a corrective action plan, fails to obtain a bulkhead permit to implement the corrective action plan or fails to implement the corrective action plan, the property owner shall be subject to the penalties set forth herein.

#### **17-9. Repair by Borough; cost to be lien.**

In addition to the above, in the event that the property owner fails to submit a corrective action plan, fails to obtain a bulkhead permit to implement the corrective action plan or fails to implement the corrective action plan, the Borough of Wildwood Crest may implement a corrective action plan upon approval of a corrective action plan that has been prepared by the Borough Engineer or Special Projects Engineer. Such approval of a corrective action plan to be undertaken by the Borough shall be evidenced by a resolution of approval duly adopted by the Board of Commissioners at any regular or special meeting of the Board of Commissioners. Upon adoption of such a resolution, a copy thereof shall be served by the Borough Clerk upon the affected property owner by certified mail to the address that is set forth on the Borough's tax records. Upon implementation of a corrective



action plan by the Borough, the sum total of all costs incurred by the Borough in implementing the correction action plan shall be a lien upon the subject property and shall be added to and form a part of the taxes and municipal charges to be assessed and levied upon the subject property and that sum total amount shall bear the same rate of interest as unpaid municipal taxes and shall be enforced in the same manner. The costs of implementing the corrective action plan include, by way of example and not by way of limitation, the engineering costs incurred for preparation of the corrective action plan, preparation of bidding documents pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., publication costs incurred in connection with any contract subject to the bidding and publication requirements of the Local Public Contracts Law, legal expenses incurred in connection with the review of contract bids, construction permit fees, inspection fees and costs and all sums of money paid to contractors.

**11-10. Reserved.**

**11-11. Violations and Penalties.**

Any person violating any provision of this chapter, upon conviction thereof, shall be punished by a fine not exceeding \$2,000.00 or by imprisonment for a term not exceeding 90 days, or both. A separate offense shall be deemed to be committed on each and every day during or on which a violation occurs or continues.

**Section 2.** The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

**Section 3.** All other ordinances in conflict with or inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this ordinance, but shall be confined in its effect to the provision directly involved in the controversy in which such judgment shall have been rendered.

**Section 5.** This ordinance shall become effective twenty (20) days after final passage and advertisement thereof as required by law.

Dated: November 1, 2023



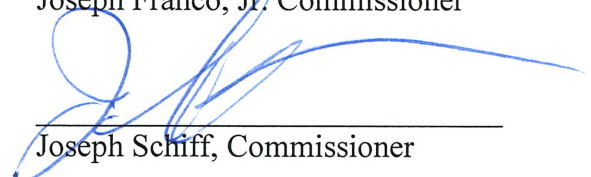
Don Cabrera, Mayor



Patricia A. Feketics, Borough Clerk



Joseph Franco, Jr. Commissioner



Joseph Schiff, Commissioner

Introduced: November 1, 2023

Adopted: November 21, 2023