

**BOROUGH OF WEST WILDWOOD
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 615 (2023)

**REPEALING AND REPLACING IN ITS ENTIRETY
ORDINANCE 603 (2022), AND
ESTABLISHING UNIFORM REGULATIONS FOR THE CONSTRUCTION AND
REPAIR OF SHORE PROTECTION MEASURES,
INCLUDING BULKHEADS**

WHEREAS, the Mayor and Borough Commissioners of the Borough of West Wildwood have 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 repeal and replace in its entirety Ordinance 603 (2022) of the Borough of West Wildwood which regulates bulkheads, their construction, reconstruction, or repair of existing or new bulkheads within the Borough of West Wildwood; and

WHEREAS, the condition and height elevation of bulkheads in the Borough of West Wildwood impacts the frequency of tidal flooding and danger to persons and 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 West Wildwood and to further the policy of the Borough to mitigate storm and tidal flooding and to promote the health, safety or welfare of the residents of the Borough and to protect public or private property within the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of West Wildwood, in the County of Cape May, New Jersey, the Governing Body of the Borough of West Wildwood, that Ordinance 603 (2022) of the Borough of West Wildwood is hereby repealed and replaced in its entirety as follows:

Section I.

Purpose. It is the purpose and intent of this Section 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 West Wildwood to further the policy of the Borough to

mitigate storm and tidal flooding and to promote the health, safety or welfare of the residents of the Borough and protect persons and public and private property within the Borough.

Section II.

Applicability.

- A. This Section applies to all properties adjacent to the Tidal Control Perimeter as defined in the West Wildwood Master Plan (attachment J) and has specific requirements to accomplish the methods of reducing flood losses defined in the Flood Damage Prevention Ordinance.
- B. This Section applies to all existing bulkheads in the Borough, as well as bulkheads that are newly constructed, reconstructed, replaced, renovated, and repaired.
- C. Bayfront Bulkhead and Tidal Control Perimeter Lots. Any property owned that demolishes an existing building or proposes to make "a substantial improvement" that requires compliance shall be required to bring the existing bayfront bulkhead into compliance with this Section notwithstanding the time periods set forth in Section X, Existing Nonconforming Flood Damage Prevention Compliance below. "Substantial improvement" shall mean any reconstruction, rehabilitation, addition, or other improvement of the structure, the cost of which equals or exceeds fifty (50%) percent of the market value before the start of construction of the improvement. This term includes structures which have incurred damage regardless of the actual repair work performed.

11-4.3 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 Land Use 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 Land Use Official. Completed applications shall be returned to the Land Use 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.
 - i. *This requirement shall not apply to wherein the project qualifies for the "Zane Exemption" for having met the qualifications set forth in N.J.A.C. 7:7-2.4(d)6(i or ii) or 7.*
 - 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; 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 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 Land Use Official, shall be given by the applicant to the owners of all real property, as shown on the current tax duplicate, within 100 feet; provided that this requirement shall be deemed satisfied by notice to the condominium association. Notice shall be given by mailing a copy thereof by regular, first-class mail and by certified mail to the property owner at his 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 the property 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 may be charged for preparation of such list.

- D. Permit issuance. Upon receipt by the Land Use Official of an application for a bulkhead permit, the Land Use 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 Land Use 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, \$10 per foot or any portion thereof.
- F. Review and Inspection fee. The inspection and review fee shall be \$650.00 for any bulkhead up to 60 linear feet, and thereafter, \$10 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 West Wildwood.
 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 may 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.

11-4.4 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 business days in advance of said commencement of construction. Not less than 10 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. Backfill material to be approved by the Borough Engineer.
- D. Prior to final acceptance, the applicant shall provide an 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.

11-4.5 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 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.

11-4.6 Bulkhead Specifications.

All bulkheads constructed, reconstructed renovated or repaired within the Borough 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~~ **10** inches and a tip diameter of not less than eight inches. *It is recommended that butt diameter by 12 inches, when possible.*
- 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 saltwater 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 or stainless 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 old, deteriorated sections of bulkhead shall be completely removed or cut off a minimum of 4" below the mudline.
- L. 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.
- M. Backfill material approved by the Borough Engineer pursuant to Section 11-4.4 must meet minimum finished grade to be at an elevation of 6.5 feet which shall run at this height for a minimum distance of six feet in the landward direction from the bulkhead.**
- N. 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.

- O. All design materials herein shall be subject to the requirements of the NJDEP and USACOE.

11-4.7 Bulkhead connection to adjacent properties and municipal right-of-way.

- A. All bulkheads shall be constructed to tie into existing bulkheads on either or both sides, if any exist, or shall be constructed with returns (at 90" to the main bulkhead) into the protected property, to prevent flanking of the main bulkhead. If the requirements of the New Jersey Department of Environmental Protection do not permit either of these alternatives, then the Department's determination shall govern.
- B. If the bulkhead is constructed of interlocking vinyl sheet piles and the adjacent bulkheads are also interlocking vinyl sheet piles, then every effort shall be made to connect both bulkheads thru their respective interlocking joints so as to provide a continuous connection.
- C. A construction detail illustrating the proposed connection method shall be provided on the plans and shall be subject to the approval by the Borough Engineer.

11-4.8 Bulkhead height.

- A. Bayfront bulkhead. The top elevation of any new bayfront bulkhead to be constructed or reconstructed shall be set at a minimum elevation of 8.50 NAVD 1988.

11-4.8 Maintenance: duty to 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 a state of repair so as to prevent erosion or damage to abutting, adjacent or adjoining properties. Whenever a bulkhead has deteriorated or suffered damage to such a degree that a danger to the property or adjoining properties 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 bulkhead, a property owner shall submit a plan of corrective action to the Borough no later than 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 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 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.

11-4.9 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 West Wildwood 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 correction 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 City's tax records. Upon implementation of a corrective action plan by the city, the sum total of all costs incurred by the City 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.

11-4.10 Existing non-conforming flood damage prevention compliance.

- A. All existing nonconforming bayfront bulkheads will be required to be structurally extended, replaced, repaired or reconstructed pursuant to the procedure set forth above in Section 11 4 .8, Maintenance: duty to repair, subject to the time requirements set forth in the below paragraphs. The elevation survey prepared for the Borough by the Borough Engineer, as may be amended, shall be utilized to determine the bulkhead heights of all existing bulkheads in the Borough and to establish the compliance of all existing nonconforming bulkheads with this Chapter.
- B. All bayfront bulkheads below elevation 6.0 feet NAVD88 pose a significant threat to the flood frequency of the Borough and will be required to be structurally extended to elevation 8.50 NAVD 1988, where possible, no later than January 2030 .

- C. Bayfront bulkheads below elevation 6.0 feet NAVD88 that cannot be structurally extended shall be replaced in accordance with the standards set forth in Sections 11-4.6 and 11-4.7 of this Ordinance.
1. All Tidal Control Boundary lots with a ground elevation below 8.5 feet NAVD88 without bulkheading or other shore protection measure shall install a bulkhead or other shore protection measure that has been approved by the New Jersey Department of Environmental Protection no later than January 2030.
 2. All lots outside of the Tidal Control Boundary with a ground elevation below 8.5 feet NAVD88 without bulkheading or other shore protection measure shall install a bulkhead or other shore protection measure that has been approved by the New Jersey Department of Environmental Protection as part of the development proposal.
- D. All other existing nonconforming bayfront bulkheads within the Borough shall be structurally extended, replaced, repaired or reconstructed to a minimum elevation of 8.50 NAVD 1988, where possible, no later than January 2040.
- E. All compliance mandates codified in this Section 11-4.10 of Ordinance #603 (2022) shall remain in effect as written unless the Borough of West Wildwood itself is not already in compliance with the height and structural requirements herein this Ordinance for all bayside public properties which are the responsibility of the Borough of West Wildwood.
- F. If the Borough of West Wildwood is not already in compliance with any of the mandates referenced in Ordinance #603 (2022), according to the deadline(s) herein, a recurring 1-year extension shall be imposed until all public lands of the Borough of West Wildwood subject to this Ordinance meet the requirements herein.


11-4.11 Violations and Penalties.


Any person violating any provision of this chapter, upon conviction thereof, shall be punished by a fine not exceeding \$2,000 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 III. 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.

COMMISSIONERS:


 MAYOR MATTHEW J. KSIAZEK

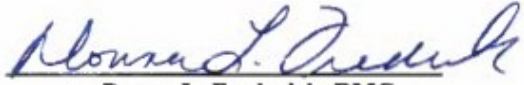

 COMMISSIONER JOHN J. BANNING


 COMMISSIONER JOSEPH D. SEGREST

First Reading/Introduction: 2023 10-06
 Publication: 2023 10-12


	Motion	Second	Yes	No	Abstain	Absent
Mayor Matthew J. Ksiazek			X			
Commissioner John J. Banning	X		X			
Commissioner Joseph D. Segrest		X	X			


I, Donna L. Frederick, RMC, Municipal Clerk of the Borough of West Wildwood, Cape May County, do hereby certify the forgoing to be a true and correct copy of an ordinance introduced and passed on the first reading at the October 6, 2023, Regular Meeting and will be considered for final passage after a public hearing to be held on November 3, 2023, at 7:00pm prevailing time.


 Donna L. Frederick, RMC
 Municipal Clerk

COMMISSIONERS:


 MAYOR MATTHEW J. KSIAZEK



 COMMISSIONER JOHN J. BANNING


 COMMISSIONER JOSEPH D. SEGREST

Second Reading/Public Hearing: 2023 11-03
 Publication: 2023 11-09

	Motion	Second	Yes	No	Abstain	Absent
Mayor Matthew J. Ksiazek			X			
Commissioner John J. Banning	X		X			
Commissioner Joseph D. Segrest		X	X			

I, Donna L. Frederick, RMC, Municipal Clerk for the Borough of West Wildwood in the County of Cape May and State of New Jersey, do hereby certify that the foregoing is a correct and true copy of an Ordinance finally adopted by the Board of Commissioners of the Borough of West Wildwood, New Jersey after a public hearing held on November 3, 2023, at 7:00pm prevailing time.


 Donna L. Frederick, RMC
 Municipal Clerk