
Borough Attorney /s/Robert L. Tarver, Jr., Esq.

**BOROUGH OF PENNS GROVE
COUNTY OF SALEM, NEW JERSEY**

ORDINANCE NO. 2023-2

**AN ORDINANCE REGULATING THE CONSTRUCTION, RECONSTRUCTION, REPAIR OR
RENOVATION OF BULKHEAD STRUCTURES**

WHEREAS, it is necessary to regulate the construction, reconstruction, repair or renovation of bulkhead structures,

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Penns Grove, County of Salem, State of New Jersey, as follows:

Section 1. Purpose.

The Borough of Penns Grove desires to create uniform regulations for the construction, reconstruction, repair or renovation of existing or new bulkheads within the Borough of Penns Grove along any waterway or beach of the Delaware River. The terms "Bulkhead" and "Seawall" shall be used interchangeably for purposes of this section and shall refer to a shoreline stabilization structure that primarily retains soil, and provides protection from waves.

Section 2. Permit required.

A permit shall be required before beginning the construction, reconstruction, repair or renovation of any bulkhead on any waterway or beach within the Borough of Penns Grove. Applications for a bulkhead permit shall be submitted to the Bulkhead Inspector who shall be appointed by the Mayor. The fee for said permit shall be \$250.

Section 3. Permit application.

A.

All applications shall be on the form provided by the Borough and accompanied by plans showing the size, shape, configuration and location of such bulkheads, the specifications of material to be used in construction, reconstruction, renovation or repair, the manner in which materials shall be incorporated into the bulkhead and the fee for review. Bulkhead plans and specifications must be designed by an engineer licensed to practice in the State of New Jersey and signed and sealed by such engineer. The plan must contain the label "issued for construction pending a permit approval."

B.

Fees: The fee for said permit shall be \$250.

Section 4. Permit approvals.

The Construction Official, Zoning Officer, Borough Engineer may act as the Bulkhead Inspector shall review the plans and grant or deny the application within 20 business days upon receipt of a completed application. The review by the Bulkhead Inspector shall be in conformity with this chapter, consistent with the minimum specifications and performance standards contained herein. For bulkhead repairs valued at less than \$1,000, the requirements for meeting minimum specifications and performance standards, including the requirements for engineered plans, shall be waived by the Bulkhead Inspector. Following the effective date of this chapter, singular or multiple repair projects affecting cumulatively less than 5% of the linear feet of a bulkhead on a single lot may be exempt from the standards as described in Sections 8 and 11. The decision of the Bulkhead Inspector shall be binding and final unless the property owner appeals that decision to the Planning Board.

Section 5. Notification of commencement of construction.

The Bulkhead Inspector shall receive notice of commencement of construction at least two business days in advance of said construction.

Section 6. Final inspection.

Notice of project completion shall be given to the Bulkhead Inspector within seven days of substantial completion of the project. The Bulkhead Inspector shall make a final inspection and receive a certification from a licensed engineer or land surveyor of the elevations of completed bulkhead height and adjacent water body soundings.

Section 7. State and federal approvals.

Application for bulkhead work must be made to appropriate agencies of the State or Federal government including but not limited to the New Jersey Department of Environmental Protection and the United States Army Corps of Engineers (USACE) and U.S. Coast Guard. No permit for work shall be issued until a valid permit is received from appropriate state or federal agencies having jurisdiction over the work.

Section 8. Minimum specifications.

The minimum specifications for construction, reconstruction, repair or renovation of bulkheads are as follows:

A.

(1)

It has been determined by the Municipal Council of the Borough of Penns Grove that consistency of construction material and height for riverfront bulkheads within the ownership and maintenance responsibilities of the upland property owner is necessary in order to provide a uniform protection

against the elements and coincide with municipal obligations to the street end protection. As such, they are considered regulatory under this section as to height and construction, as follows:

(2)

Construction.

(a)

Bulkhead design shall provide for expected toe scour or proposed dredge depth and shall be shown on plans.

(b)

All river front bulkhead construction or replacement shall be within the established riparian rights of the upland property owner. No construction permit shall be issued by the Construction Code Official without proper approval of the State of New Jersey, U.S. Coast Guard and Army Corps of Engineers. Bulkhead material shall be designed in conformance with standard engineering construction as approved by the State of New Jersey and Army Corps of Engineers and the Borough Engineer. Construction or modifications to the riverfront bulkheads shall be subject to approval by the Municipal Construction Code Official and the Borough Engineer through the building permit procedure.

(c)

All private bulkheads within the Borough of Penns Grove must be maintained in such a manner so that the same are not injurious or dangerous to the health, safety or welfare of the citizens of, or visitors to, Penns Grove. Said bulkheads shall be kept in such a state of repair so as to maintain the land in and around said bulkhead to a grade above the mean high tide level as established for the Borough of Penns Grove. Said bulkheads shall be maintained to prevent erosion of any upland dirt, sand or other material from the property on which the bulkhead is situated or any neighboring or adjoining properties. Additionally, no zoning permit, certificate of occupancy or certificate of land use shall be issued for any vacant lot which does not have a bulkhead or does not have a bulkhead which is in conformity with this chapter. For any sale of a lot without a conforming bulkhead, if the responsibility to construct the bulkhead is placed on the buyer, a certificate of land use may be issued, in the discretion of the Construction Official, upon the submission of a bond in favor of the Borough of Penns Grove in an amount equal to 110% of the cost to construct the bulkhead and a written agreement between the buyer and seller clearly stating the responsibility to construct the bulkhead is placed on the buyer. In such event, the bulkhead must be constructed within 12 months of the date of sale or the Borough of Penns Grove shall have the absolute right to call said bond and be allowed access to the property to construct said bulkhead. Any person or entity who violates this section of the Code of the Borough of Penns Grove may be subject to a fine not to exceed \$2,500, may be ordered to perform community service for up to 30 days, all in the discretion of the Municipal Court Judge of the Borough of Penns Grove.

(3)

The minimum elevation of the top of the bulkhead shall be 8.5 feet NAVD, 1988 datum to a maximum of elevation 9.0 feet NAVD 1988 unless the adjacent grade is higher than elevation 9.0 NAVD 1988. Fencing to a height of not more than four feet shall be permitted above the highest permitted elevation of the riverfront bulkhead regardless of consideration of whether it is the front, side or rear yard. Fencing shall be permitted to extend from property line to property line along the riverfront bulkhead.

(4)

Additional outfall piping requires written approval from the Borough Engineer. If drainage conditions require piping, all new infrastructure must have an approved tide-control device.

(5)

Existing privately owned outfall piping will be extended and fitted with an approved tide-control device.

(6)

Existing Borough-owned storm drains that penetrate private bulkheads shall be extended and maintained by the Borough.

(7)

Bulkhead construction shall not adversely affect the depth of the adjacent water body.

(8)

The owner(s) must permit the connection to or from any adjacent bulkheads and returns whether it be existing or newly constructed or proposed.

(9)

All Borough-owned bulkheads may be connected to with the approval of the Borough.

(10)

Bulkhead returns are encouraged to be how long as is necessary to protect the subject property.

(11)

Fill is encouraged to elevate the grade beyond the elevation of nuisance flooding.

(12)

If the proposed construction methods shall require access and/or disturbance of Borough property, a detailed plan outlining the proposed limits of disturbance and proposed restoration shall be provided for approval by the Borough Engineer or his designee. Borough property shall be restored to a condition equal to preconstruction conditions.

(13)

No concrete riverfront seawall cap or timber riverfront bulkhead cap, sheeting and/or piling shall be constructed with a finished elevation higher than the highest elevation of the existing riverwalk decking within the area projected by the extension of the property lines to the riverwalk. No fencing or any other material construction will be permitted on or over any concrete oceanfront seawall or timber oceanfront bulkhead. Any fencing shall be placed along the property line only. The fence shall be placed on the landward side of the concrete seawall construction. All fencing shall be constructed independent of the seawall/bulkhead construction. No fencing shall be constructed higher than the existing riverwalk railing, but in no case higher than 48 inches above the height of the riverfront seawall or bulkhead.

Section 9. Performance standards.

All bulkheads construction, reconstruction, repair or renovation must meet the following performance standards in addition to the minimum standards set forth above. Applicants utilizing innovative methods of construction must be prepared to show how such methods will meet the performance standards.

A.

Bulkheads also function as flood protection. All bulkheads shall be designed to function as such.

B.

All bulkhead reconstruction shall utilize generally accepted engineering principles and practices.

C.

Materials selection must include evaluation of environmental impacts that are caused by the materials.

D.

Bulkhead construction shall not adversely affect adjacent properties.

E.

Any person or entity who violates this section of the Code of the Borough of Penns Grove may be subject to a fine not to exceed \$2,500, may be ordered to perform community service for up to 30 days, all in the discretion of the Municipal Court Judge of the Borough of Penns Grove.

Section 10. Utilities.

A.

It is the responsibility of the applicant to protect all existing utilities. The applicant is responsible for obtaining current "utility mark-out" for appropriate state or local agencies prior to commencement of construction.

B.

All utilities shall be relocated or reconnected at the owner's expense.

Section 11. Maintenance, duty to repair.

A.

All private bulkheads within the Borough of Penns Grove shall be maintained so they shall not pose a danger to the health, safety or welfare of the citizens of the Borough of Penns Grove or to property within the Borough of Penns Grove. The bulkheads shall be kept in a state of repair to prevent erosion or damage to abutting, adjacent or adjoining properties. Whenever a bulkhead has deteriorated to such a degree that it poses a danger to the property, or adjoining properties, the Bulkhead Inspector shall notify the property owner, in writing, of the nature of the deterioration and require the owner to make the necessary repairs. The property owner shall submit a plan of corrective action to the Bulkhead Inspector no later than 30 days from receipt of the notice. Upon approval of the corrective action by the Bulkhead Inspector, the property owner shall complete all necessary repairs forthwith. If permits are required from the State of New Jersey or the federal government, such permits shall be immediately applied for. In the event the property owner fails to submit a corrective action plan or fails to implement that plan, he shall be liable for the penalties and violations contained herein.

B.

Any and all existing bulkheads below the minimum height or elevation, shall be reconstructed to the minimum elevations required by the Borough's Ordinance for all new construction, substantial Improvement, substantial damage, house raising and other substantial construction activity, including any subdivisions of land. If a structure is to be elevated or raised to meet the Borough's flood damage prevention ordinance^[1] and a noncompliant bulkhead is below the structure, the bulkhead shall be replaced prior to resetting of the structure, principal or accessory.

C.

Said bulkheads shall be maintained to prevent erosion of any upland dirt, sand or other material from the property on which the bulkhead is situated or any neighboring or adjoining properties. Additionally, no zoning permit, certificate of occupancy or certificate of land use shall be issued for any vacant lot or developed lot which does not have a bulkhead or does not have a bulkhead which is in conformity with this chapter. For any sale of a lot without a conforming bulkhead, if the responsibility to construct the bulkhead is placed on the buyer, a certificate of land use may be issued, in the discretion of the Construction Official, upon the submission of a bond in favor of the Borough of Penns Grove in an amount equal to 110% of the cost to construct the bulkhead and a written agreement between the buyer and seller clearly stating the responsibility to construct the bulkhead is placed on the buyer. In such event, the bulkhead must be constructed within 12 months of the date of sale or the Borough of Penns Grove shall have the absolute right to call said bond and be allowed access to the property to construct said bulkhead. Any person or entity who violates this section of the Code of the Borough of Penns Grove may be subject to a fine not to exceed \$1,250, may be ordered to perform community service for up to 30 days, and may be subject to jail time not to exceed 90 days, all in the discretion of the Municipal Court Judge of the Borough of Penns Grove.

Section 12. Bulkhead appeals.

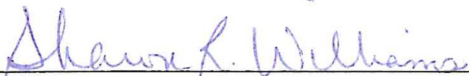
A bulkhead denial may be appealed to the Planning Board of the Borough of Penns Grove.

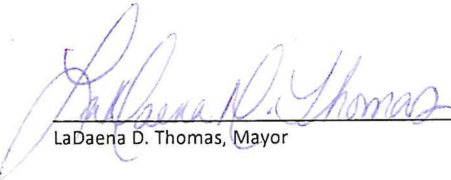
Section 13. Effective date.

This chapter shall take effect upon its final passage and publication as required by law.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon adoption and publication according to law.

ATTEST:

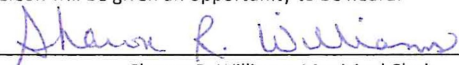

 Sharon R. Williams, Municipal Clerk


 LaDaena D. Thomas, Mayor

Intro:

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Martin	X		X			
Carter						X
Marinero			X			
Rambo			X			
Scott		X	X			
Worley			X			

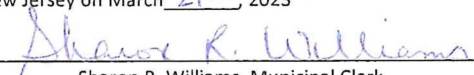
Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on February 28, 2023 and will be considered for final passage at a meeting to be held by the Mayor and Council at Borough Hall, Broad Street and State Street, Penns Grove, New Jersey on March 21, 2023 at which time any interested person will be given an opportunity to be heard.


 Sharon R. Williams, Municipal Clerk

FINAL:

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Martin			X			
Carter	X		X			
Marinero			X			
Rambo			X			
Scott			X			
Worley		X	X			

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on February 28th, 2023 and was adopted, after a public hearing was held by the Mayor and Council at Borough Hall, 1 State Street, Penns Grove, New Jersey on March 21st, 2023


 Sharon R. Williams, Municipal Clerk