

BAY HEAD BOROUGH

ORDINANCE NO. 2023-06

ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE II, CHAPTER 209 OF THE BOROUGH CODE ENTITLED "STREETS AND SIDEWALKS" TO PROVIDE FOR A PEDESTRIAN SAFETY FUND

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Bay Head, County of Ocean, State of New Jersey, that Chapter 209 of the Borough Code entitled "Sidewalk Construction" is hereby amended and supplemented as follows:

SECTION 1. Section 209-14.E "Sidewalks and Curbing; Pedestrian Safety Fund" shall be added as follows:

Section 209-14.E Sidewalks and Curbing; Pedestrian Safety Fund.

- 1 . Notwithstanding any provision to the contrary in Article II of the Borough Code, sidewalks and curbing shall be required along all street frontages as a condition of any new construction and significant renovations. The proposed curbing and/or sidewalk shall be designed and constructed in accordance with the requirements of Section 209-17 of the Borough Code.
2. Payment in lieu of sidewalk and curbing.
 - (a) Any developer seeking approval for any new construction and significant renovations may request a waiver of the requirement of install curbing and sidewalks along the street frontages of the subject property by agreeing to pay a sum to the Bay Head Borough Pedestrian Safety Fund equal to the cost of said curbing and sidewalk. Said waiver shall be approved by the **Borough Engineer** based on documented construction costs for public improvements prevailing in the general area of the municipality.
 - (b) In determining whether to grant the requested waiver and accept a payment in lieu of the installation of sidewalk and curbing, the Borough Engineer shall consider the following factors:
 - [i] The presence or absence of existing curbing and sidewalks in the general vicinity of the subject property.
 - [ii] The practical difficulty as established by the applicant for installing such improvements in or adjacent to the subject property due to exceptional topographic conditions, drainage concerns, and/or the deleterious impact to surrounding properties as a result of the installation of such improvements.
- c. Bay Head Borough Pedestrian Safety Fund.
 - (1) There is hereby established the Bay Head Borough Pedestrian Safety Fund (hereinafter "fund").

- (2) Said fund shall be dedicated to pay for the cost of designing and constructing various pedestrian safety projects within the Borough of Bay Head.
- (3) All monies paid by developers in accordance with this section shall be deposited into the fund.
- (4) The Chief Financial Officer of the Borough is hereby directed to establish and maintain the fund and to make disbursements upon the request of the Borough Council, Borough Administrator, Public Works Director or Borough Engineer for designated pedestrian safety improvements.

SECTION 2. All ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This Ordinance shall take effect upon publication in an official newspaper of the Borough, as required by and in conformance with law.

ATTEST:

APPROVED:

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor

Introduced on First Reading:

April 3, 2023

Introduced on Second Reading:

May 1, 2023

Approved on Second Reading:

May 1, 2023

ATTEST:

APPROVED:

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor