

Borough of Union Beach

ORDINANCE NO. 2024- 336

MEETING OF APRIL 18, 2024

AN ORDINANCE AMENDING CHAPTER 13 (LAND USE AND DEVELOPMENT REGULATIONS) OF THE GENERAL ORDINANCES OF THE BOROUGH OF UNION BEACH, COUNTY OF MONMOUTH, STATE OF NEW JERSEY TO ADD CHAPTER 13-2.6 DEFINITIONS PERTAINING TO DUNE CROSSOVERS, AMEND CHAPTER 13-3.4 FEES AND ADD CHAPTER 13-8.36 DUNE CROSSOVERS.

WHEREAS, the United States Army Corps of Engineers (USACE), in conjunction with New Jersey Department of Environmental Protection (NJDEP) and the Borough of Union Beach (Borough) has constructed a Coastal Storm Risk Management Project in the Borough consisting of two (2) terminal groins, sand dunes, beach berms, three (3) public pedestrian crossovers and one (1) vehicular maintenance crossover, and

WHEREAS, in order to construct said project, Perpetual Beach Storm Damage Reduction Easements were acquired affecting the following eleven (11) residential parcels:

- | | | | |
|------------|------------|---------------|-----------------|
| 1) Block 1 | Lot 1 | 7) Block 1 | Lot 9 |
| 2) Block 1 | Lot 2 | 8) Block 1 | Lot 10 |
| 3) Block 1 | Lots 3 & 4 | 9) Block 29 | Lots 11 thru 13 |
| 4) Block 1 | Lot 5 | 10) Block 29 | Lot 14.01 |
| 5) Block 1 | Lot 6 | 11) Block 251 | Lot 2.01 |
| 6) Block 1 | Lots 7 & 8 | | |

WHEREAS, in granting said easements, the Grantors reserved a right to construct a private dune crossover in accordance with any applicable Federal, State or Local laws or regulations with prior approval of the plans and specifications from the Borough and NJDEP, and

WHEREAS, the Borough wishes to provide guidance, regulations and restrictions for said approvals.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Union Beach, County of Monmouth, State of New Jersey as follows:

1. 13-2.6 Definitions Pertaining to Dune Crossovers is added as follows:

13-2.6 Definitions Pertaining to Dune Crossovers

BEACH AREA

That area between the mean high waterline of the Raritan Bay and the bayward edge of the dune.

CROSSOVER OR WALKWAY

A constructed means of crossing the dune area in accordance with plans and specifications approved by the Borough's administrative officer.

DUNE

A wind or wave deposited or man-made formation of vegetated or drifting windblown sand.

DUNE AREA

Shall mean that area between the bayward edge of the dune as exists or as established by the USACE Beachfill and Dune Project or as may advance northerly through natural accretion from that initial point and the landward edge of the dune as exists, is constructed as part of the USACE Beachfill and Dune Project or as may be created by natural migration of the dune to the south. The Dune area is generally contained completely within a sand fence.

NATURAL VEGETATION

Includes the terms “native vegetation” or indigenous vegetation.” Specifically, it shall include, but not be limited to, Cape American Beach Grass and Seaside Goldenrod, which normally grow or may be planted on the slopes of dunes, no distinction being made as to how such plants are introduced into their location.

SAND FENCE

Shall include the term “snow fence” or “dune fence” of a barricade type established in a line or a pattern to accumulate sand and aid in the formation of a dune, such as picket construction consisting of wooden lath held together by wire an affixed to wooden posts. Alternate types of “sand fence” may be utilized if approved by the Borough.

WALKWAY OR CROSSOVER

A constructed means of crossing the dune area in accordance with plans and specifications approved by the Borough’s administrative officer.

2. Chapter 13-3.4 Fees is amended as follows:

APPENDIX A ZONING/DEVELOPMENT Fees under 13-3.4 (a) Application for a Zoning/Development Permit is amended to include:

| | |
|----------------|------|
| Dune Crossover | \$75 |
|----------------|------|

3. Chapter 13 (Land Use and Development Regulations) is amended to include Chapter 13-8.36 Dune Crossovers

13-8.36 Dune Crossovers

- a. In granting Storm Damage Reduction Easements for the construction of the Union Beach Coastal Storm Risk Management Project, the right to construct a private dune crossover was reserved for the following residential parcels:

| | | | |
|------------|------------|---------------|-----------------|
| 1) Block 1 | Lot 1 | 7) Block 1 | Lot 9 |
| 2) Block 1 | Lot 2 | 8) Block 1 | Lot 10 |
| 3) Block 1 | Lots 3 & 4 | 9) Block 29 | Lots 11 thru 13 |
| 4) Block 1 | Lot 5 | 10) Block 29 | Lot 14.01 |
| 5) Block 1 | Lot 6 | 11) Block 251 | Lot 2.01 |
| 6) Block 1 | Lots 7 & 8 | | |

Such crossovers are to be considered subordinate to the construction, operation, maintenance, repair, rehabilitation, and replacement of the engineered dune.

Construction of a crossover on these parcels is subject to the following:

- b. Only one (1) crossover or walkway across the dune area is permitted for each parcel. It shall run, generally, the shortest practical course between the landward edge or toe of the dune and the bayward edge or toe of the dune, and shall not exceed four (4) feet in width. The surface of the crossover is to remain the natural composition of the dune, a NJDOT non-angular mix I-5 soil aggregate or roll-out beach mat. The crossover shall be fenced on both sides through the use of sand fencing and connect with the existing sand fence enveloping the dune. Any grading or excavation associated with the installation of the crossover shall not result in the lowering of the beach or dune design specifications. In the event that any crossover shall be or become, in the opinion of the Borough, a substantial detriment to the development and maintenance of the continuous protective dune, the owner of the premises shall be required to repair and/or replace approved materials sufficient to return the dune to its designed specifications.
- c. The removal of natural or planted vegetation and/or sand fence in the dune area is allowable to the minimum extent necessary for the construction of a crossover. Any vegetation or fencing that is damaged or removed outside of the authorized 4-foot crossover area will be required to be replaced.
- d. The removal and grading of sand from the beach area, dune area or areas south of the dune area is prohibited.
- e. The length of the crossover is strictly confined to the area between the landward edge or toe of the dune and the bayward edge or toe of the dune generally defined by the location of existing sand fencing. As the crossovers can be constructed as private for each parcel, gates are allowed at each end of the crossover.
- f. A permit application, with the appropriate fee, must be submitted. An approval of the plans and specifications by the Borough's administrative officer must be granted before construction can begin. Upon completion of the construction, a final inspection will be performed by the Construction Official to confirm compliance with the approved plans.
- g. Any person violating any of the provisions of this section, or any rule or regulation promulgated pursuant hereto, shall be subject to fines and penalties as follows:
 1. Fines. Any person who is convicted of a violation of this chapter shall be subject to a fine not to exceed \$2,000 and/or a term of imprisonment not to exceed 90 days or a period of community service not exceeding 90 days, or both.

2. Restitution. In addition to the penalties imposed pursuant to paragraph 1 above, any person may be directed by the municipal court or any court of competent jurisdiction to pay to the borough the cost of the repair, replacement or restoration of any damaged park property.
3. Each day that a violation shall continue to exist shall constitute a separate offense.

BE IT FURTHER ORDAINED, that if any provision, paragraph, section or subsection of this chapter be found unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions of this chapter shall remain in full force and effect and shall have continuing validity; and

BE IT FURTHER ORDAINED, that all other sections of the ordinance remain in full force and effect; and

BE IT FURTHER ORDAINED, that this ordinance shall take effect immediately upon final adoption in accordance with law.

ATTEST:

APPROVAL:

Anne Marie Friscia, Borough Clerk

Charles W. Cocuzza Mayor

INTRODUCED ON FIRST READING:

March 21, 2024

FINAL ADOPTION: