

**SYNOPSIS OF AMENDING THE CODE OF SOUTH BETHANY,  
CHAPTER 50, BULKHEADS  
ORDINANCE 182-16 (THIRD READING)**

(Sponsored by Councilmember Weisgerber)

This ordinance amends Chapter 50, "Bulkheads" to:

- Permit the installation of Modular Floating Docking Systems (MFDS) in the Town of South Bethany.
- Change the number of days for an appeal to commence and to clarify violations.



**ORDINANCE NO. 182-16**

**AN ORDINANCE TO AMEND** the Code of the Town of South Bethany, Chapter 50, **Bulkheads**, to permit the installation of Modular Floating Docking Systems, and to change the number of days for an appeal to commence and to clarify violations.

**BE IT HEREBY ENACTED** by the Council of the Town of South Bethany, Sussex County, a majority thereof concurring in Council duly met, that Chapter 50 ("Bulkheads") be amended as follows (additions are **highlighted** and deletions **marked through**):

**"BULKHEADS"**

**§ 50-3. Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

BULKHEAD – Walls specifically designed to hold property banks adjacent to the Town waterways.

RIPRAP – Rocks specifically designed to hold property banks.

***MODULAR FLOATING DOCKING SYSTEMS (MFDS) – Platforms used as floating boat ramps, floating docks and inflatable lifting docks.***

**§ 50-8.1. Davits and boat lifts.** [Added 10-11-2002 by Ord. No. 108-02]

- A. Davits (of a type to lift canoes, kayaks, or jet skis) are permitted. They are to be placed no closer than 10 feet to either side property line and shall be in accordance with zoning § 145-38**F G**.
- B. Boat lifts are permitted. They must be manufactured specifically for the intended purpose. The long dimension of the boat lift shall be parallel to the bulkhead, no longer than 22 feet, placed no closer than 10 feet to either side property line. If the lot is bordered on two sides by a canal, the boat lift must be placed no closer than 25 feet from the intersection of the two canals. ~~If the two canal sides of the lot are unequal, the boat lift must be placed on the longest side.~~ The frame of boat lifts, including support pilings, shall not protrude into the canal more than 20% of the canal width, not to exceed 13 feet for canals wider than 60 feet, and shall be in accordance with zoning § 145-38**G H** and the specifications which are available for inspection at the Town Office. [Amended 3-11-2005 by Ord. No. 131-04]

- C. Small lifts for jet skis (PWCs) are permitted and may be in addition to docks or boat lifts. They may be placed no closer than 10 feet to either side property line, and may not protrude into the canal more than 20% of the canal width, not to exceed 13 feet for canals wider than 60 feet. If a lot is bordered on two sides by a canal, the lift must be placed no closer than 25 feet from the intersection of the two canals. ~~If the two canal sides of the lot are unequal, the lift must be placed on the longest side, and~~ **All lifts** shall be in accordance with § 145-38 ~~G H~~. [Amended 3-11-2005 by Ord. No. 131-04]
- D. ~~Floating boat ramps and floating docks (designed for a watercraft to be driven onto) are not permitted.~~ **Modular Floating Docking Systems (MFDS) are permitted, subject to the following:**
- (1) The MFDS shall be affixed to its supporting bulkhead by an attachment system of commercial grade intended to provide full vertical tidal range rise and fall.**
  - (2) The MFDS shall be placed no closer than 10 feet to either side property line, and may not protrude into the canal more than 20% of the canal width, not to exceed 13 feet for canals wider than 60 feet.**
  - (3) Shall be clearly marked with reflectors at its external corners.**
  - (4) All MFDS shall be commercially manufactured products that have warranties from the manufacturers.**
  - (5) If not removed each season, MFDS shall be capable of multi-season use.**
  - (6) Shall be designed with rollers, cut outs, molded ramps, or other design elements that are intended to allow docking without using the boat's propulsion.**
- E. Application for a building permit shall include a ~~plot~~ plan showing: ~~the location of the device and manufacturer's data sheets.~~
- (1) The location of the device on the property plot with annotated setbacks and canal intrusions shown.**
  - (2) Manufacturer's data sheets for the proposed lifts, MFDS, davits, etc. shall include lifting capacity, external dimensions, canal intrusion, and piling and /or lift structure heights when craft are in the lifted condition.**

**(3) The manufacturer's proposed mooring system for MFDS.**

F. All davits, ~~and~~ lifts, **and MFDS** shall be maintained in good repair **or removed**. [Added 3-11-2005 by Ord. No. 131-04]

**§ 50-9. Enforcement.** [Amended 10-11-2002 by Ord. No. 108-02; 3-11-2005 by Ord. No. 131-04]

The Town shall conduct an annual inspection of all bulkheads, ramps, docks, boat lifts, davits, personal watercraft lifts, **MFDS** and stairs to determine if any are in need of repair **or are not compliant** as described hereinafter. Whenever the Code Enforcement Constable determines that there exists a ~~repair~~ violation of any of the sections of this chapter, he/she shall provide written notice thereof to the owner, setting out the conditions constituting the violation, with reference to the governing code section; a reasonable time limit, not exceeding 180 days, for the owner to correct the violation; and that the owner may file a written notice of appeal of the Code Enforcement Constable's determination to the Town ~~Hearing Board~~ **within 30 days of the date of the notice of violation** **Manager within 30 days of the date of the notice of violation. The Town Manager has 10 days to respond to the owner. If the Town Manager supports the decision of the Code Constable he/she will advise the owner they have 10 days to request a hearing with an appeal board that will be appointed by Mayor and approved by Council. The written notice of appeal shall be accompanied with the fee as specified in § 116-4 Fees.** Such notice of violation shall be served upon the owner by personal delivery to the owner or to an adult person residing at the owner's address, or by depositing such notice into the U. S. mails, with proper postage affixed, addressed to the owner at the owner's mailing address as shown on the Town's records, or in the event that delivery in person or by regular mail is not possible, by posting such notice in a conspicuous place on the premises. Delivery of notice shall be deemed complete upon personal delivery, if so delivered; upon depositing the notice in the U. S. mails, if mailed; and upon posting the property, if posted.

**§ 50-9.1. Appeals.** [Added 10-11-2002 by Ord. No. 108-02]

If an appeal is requested, **the intent is to commence the appeal** ~~it shall be commenced~~ within 30 days **if possible, but may be up to 60 days** after the request is received. The Hearing Board shall consist of three members of Council appointed by the Mayor and approved by Council. If, after a hearing, the Hearing Board finds that no violation exists, the Code Enforcement Constable shall withdraw the notice. If the Hearing Board finds that a violation does exist, the property owner shall correct the violation within six months from the date of the hearing decision **and not**

***repeat the same violation again at a later date.*** The proceedings of the appeal, including the findings and decision of the Hearing Board, ***may be recorded, but*** shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Code Enforcement Constable. Failure to comply with the decision of the Hearing Board may result in penalties stated in § 50-11.

**Effective date: This ordinance shall become effective upon the date of adoption.**

**ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY,  
SUSSEX COUNTY, DELAWARE, ON THE 14<sup>TH</sup> OF OCTOBER 2016.**