

**DRAFT #2 08/06/10)**

**THE BOROUGH OF MANTOLOKING**  
**MAYOR AND COUNCIL**

**MINUTES OF THE REGULAR BUSINESS MEETING**  
**July 19, 2010**

The regular monthly meeting of the Mayor and Council was held this day in the meeting room of Borough Hall with the following actions:

- 1. CALL TO ORDER:** Mayor Nebel called the meeting to order at 4:30 p.m.
- 2. OPEN PUBLIC MEETING STATEMENT:** Mayor Nebel read the following statement:  
*In compliance with the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting of the Mantoloking Borough Council has been advertised in the manner provided by law.*
- 3. ROLL CALL**  
**Present:** Mayor George C. Nebel, Council President Stanley F. Witkowski, Councilmen Steve Gillingham, Peter R. Strohm, Donald S. Ness, James J. Brown and Councilwoman Ann Elizabeth Nelson  
**Absent:** None  
  
**Also Present:** Municipal Clerk Irene H. Ryan, Borough Attorney Edwin J. O'Malley, Jr., Chief Financial Officer Michelle Swisher and Police Lieutenant John Barcus
- 4. PLEDGE OF ALLEGIANCE:** The Mayor led the assembly in the Pledge of Allegiance.
- 5. PRIVILEGE OF THE FLOOR:** The Mayor opened the meeting for public comment and questions about the agenda. No comments were made.
- 6. MINUTES OF PREVIOUS MEETINGS:**  
**RESOLUTION NO. 07/19/2010 - 01: APPROVAL OF MINUTES**  
Councilwoman Nelson moved that the minutes of the Regular Meeting of June 21, 2010 be approved as distributed. The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

**7. COMMITTEE REPORTS AND RECOMMENDATIONS**

**FINANCE COMMITTEE, COUNCILMAN WITKOWSKI**

**A.** Councilman Witkowski introduced the Municipal Finance Officer Michelle Swisher who presented the monthly finance report.

**B. Action Items:**

Councilman Witkowski moved the following five (5) resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

**RESOLUTION NO. 07/19/2010 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER May 31, 2010**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2010 municipal budget as of May 31, 2010; and

**WHEREAS**, that report indicates the following status as of that date:

| ACCOUNT                         | BUDGET         | EXPENDED<br>BALANCE<br>YEAR TO DATE | ENCUMBERED      |
|---------------------------------|----------------|-------------------------------------|-----------------|
| 2010 Current Year Appropriation | \$4,079,249.10 | \$1,833,226.54<br>2,163,675.41      | \$ 82,347.15 \$ |
| 2009 Appropriation Reserves     | \$ 385,348.95  | \$ 112,392.61<br>266,439.49         | \$ 6,516.85 \$  |
| Capital                         | \$1,071,939.99 | \$ 191,585.08<br>880,932.17         | \$              |

| ACCOUNT       | REVENUE<br>THIS<br>MONTH | REVENUE<br>YEAR TO DATE |
|---------------|--------------------------|-------------------------|
| Cash Receipts | \$1,377,605.08           | \$4,455,615.98          |

**now, therefore, be it**

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey accept the above referenced and summarized report and directs that a copy be attached to and made part of the minutes of this meeting.

**RESOLUTION NO. 07/19/2010 – 03: PAYMENT OF BILLS FOR THE MONTH OF July 2010**

**WHEREAS**, the Municipal Finance Officer has presented a list of bills in the total amount of **\$275,304.03** and recommended that they be paid, now, therefore, be it

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approve payment of the above referenced bills and directs that a copy be attached to and made part of the minutes of this meeting.

**RESOLUTION NO. 07/19/2010 – 04: TO CANCEL CAPITAL ORDINANCE BALANCES OF COMPLETED PROJECTS**

**WHEREAS**, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

**WHEREAS**, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Surplus, and unused debt authorizations may be canceled;

**NOW THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Mantoloking, County of Ocean, State of New Jersey, that the following unexpended and dedicated balances of General Capital Appropriations be canceled:

| ORD NO. | DATE AUTH  | PROJECT               | AMOUNT CANCELLED |                 | UNEXPENDED |
|---------|------------|-----------------------|------------------|-----------------|------------|
|         |            |                       | FUNDED           | CAP SURPLUS CIF |            |
| 535     | 03/19/2007 | Public Walkways       |                  |                 | \$4,148.05 |
| 570     | 04/20/2009 | Fire Escape-Firehouse |                  |                 | \$8,000.00 |

**RESOLUTION NO. 07/19/2010 – 05: REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87**

WHEREAS, NJS 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for equal amount,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Mantoloking in the County of Ocean, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2010 in the sum of \$703.82, which is now available from the State of New Jersey, Alcohol Education Rehab Fund.

BE IT FURTHER RESOLVED, that the like sum of \$703.82 is hereby appropriated under the caption of 2010 Alcohol Rehab Grant; and

BE IT FURTHER RESOLVED that the above is the result of funds from the State of New Jersey, Alcohol Education Rehab Fund in the amount of \$703.82.

**RESOLUTION NO. 07/19/2010 – 06: AUTHORIZE REFUND OF PURCHASED 2010 BEACH BADGES**

PURCHASER: Kendrick Simmons

QUANTITY: 10

COST: \$120.00

**PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:**

A. **Reports of the Public Safety Committee:** Councilman Gillingham introduced Lieutenant Barcus who presented the report of the Police Department. Councilman Gillingham concluded with the presentation of the reports of the Municipal Court and Fire Company.

B. **Action Items:**

Councilman Gillingham moved the following two (2) resolutions. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

**RESOLUTION NO. 07/19/2010 – 07: PROVIDING FOR SALE OF PROPERTY NOT NEEDED FOR PUBLIC USE 1992 CHEVROLET VAN WITH LONG WHEEL BASE VIN NO.: 2GAGG39KON4119962**

WHEREAS, the Borough, on two (2) occasions sought to obtain responsive bidders for the purchase of the above described vehicle; and

WHEREAS, on both occasions, responsive bids were not obtained; and

WHEREAS, it is the desire of the Mayor and Council to sell the vehicle at private sale, pursuant to N.J.S. 40A:11-36.

IT IS NOW, THEREFORE, this 19th of July, 2010, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. that the vehicle shall be sold at private sale, without further publication, at estimated fair market value;

2. any negotiated private sale shall be without warranty and at such price as shall be approved by the Mayor and Chairman of the Public Safety Committee;
3. Upon approval by the Mayor and Chairman of the Public Safety Committee, the Borough Clerk may, upon receipt of the purchase price, cash or certified check, execute and deliver the title document to the purchaser.

**RESOLUTION NO. 07/19/2010 – 08: APPOINTMENT OF PERSONNEL – SEASONAL/PART TIME HELP**

*RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves the following appointments with the terms and conditions indicated:*

| <i>Name</i>         | <i>Position</i>       | <i>Effective Date</i> | <i>Salary</i>       |
|---------------------|-----------------------|-----------------------|---------------------|
| <i>Daniel Kenny</i> | <i>Crossing Guard</i> | <i>07/24/2010</i>     | <i>\$ 8.50/Hour</i> |

**PUBLIC WORKS COMMITTEE, COUNCILWOMAN NELSON**

**A. Reports of the Public Works:** Councilwoman Nelson presented the reports from the Public Works Superintendent, Construction Official and Land Use Officer.

**C. Action Items:**

Councilwoman Nelson moved the following two (2) resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

**RESOLUTION NO. 07/19/2010 – 09: PROVIDING FOR SALE OF SURPLUS PERSONAL PROPERTY TWO (2) BULLDOZERS**

**WHEREAS**, the Borough owns the earthmoving equipment described below:

1988 Fiat Allis 14C Bulldozer, Serial No.: 53026

1965 Caterpillar D7F Bulldozer, Serial No.: 96N783; and

**WHEREAS**, the equipment is in disrepair and not suitable for use by the Borough.

**IT IS NOW, THEREFORE**, this 19th day of July, 2010, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. that the above described personal property is surplus and shall be sold at public sale;
2. the sale shall be made either for each unit separately or as a combined sale, both in one (1) bid;
3. The sale shall be publicly advertised. The notice shall include, but not be limited to, a recital that the equipment is used, not in operating condition, is in disrepair, and is sold without warranties, express or implied, "where is, as is".
4. the Notice of Sale – Invitation to Bidders shall be published forthwith.

**RESOLUTION NO. 07/19/2010 – 10: APPOINTMENT OF PERSONNEL – PART TIME HELP**

*RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves the following appointments with the terms and conditions indicated:*

| <i>Name</i>          | <i>Position</i>                                     | <i>Effective Date</i> | <i>Salary</i>                             |
|----------------------|---|-----------------------|---|
| <i>John P. Kelly</i> | <i>Plumbing Subcode Inspector(Interim Official)</i> | <i>July 19, 2010</i>  | <i>\$ 25.00/Hour, 2 hr. min. per call</i> |

**PUBLIC HEARING:** Mayor Nebel opened the meeting for a Public Hearing on Ordinance No. 588 – REGULATION OF REFUSE CONTAINERS/DUMPSTERS and Ordinance No. 589 – REGULATION OF PRIVATE STORM DRAIN INLET RETROFITTING. No comments were made.

Councilwoman Nelson moved the following two (2) resolutions. The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

**RESOLUTION NO. 07/19/2010 – 11: ADOPTION OF ORDINANCE NO.588 – REGULATION OF REFUSE CONTAINERS/DUMPSTERS**

**WHEREAS**, on the 19<sup>th</sup> day of July, 2010 a public hearing on Ordinance No. 588 was held and no comments were made by the public, now, therefore, be it

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, hereby adopt the following Ordinance entitled: (Copy attached)

**ORDINANCE NO. 588**

***AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, REGARDING REFUSE CONTAINERS/DUMPSTERS***

**RESOLUTION NO. 07/19/2010 – 12: ADOPTION OF ORDINANCE NO.589 – REGULATION OF PRIVATE STORM DRAIN INLET RETROFITTING**

**WHEREAS**, on the 19<sup>th</sup> day of July, 2010 a public hearing on Ordinance No. 589 was held and no comments were made by the public, now, therefore, be it

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, hereby adopt the following Ordinance entitled: (Copy attached)

**ORDINANCE NO. 589**

***AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, REGARDING PRIVATE STORM DRAIN INLET RETROFITTING***

**DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN STROHM**

**A. Report of the Dune & Beach Renourishment Committee**

**B. Action Items:** None

Councilman Strohm presented the final report dated July 13, 2010 as submitted by Dune Inspector Robert Mainberger of Hatch, Mott MacDonald. Said report contained the final documentation of the beach and dune maintenance sand transfer for the restoration of the Mantoloking protective dune system.

**MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN**

**A. Councilman Brown will present the reports of the Municipal Services Committee.**

**B. Action Items:** None

**MANTOLOKING COMMITTEE, COUNCILMAN NESS**

**A. Councilman Ness did not receive written reports of the Mantoloking Committee and the Environmental Commission.**

**B. Action Items:**

Mayor Nebel opened the meeting to the public for comments and discussion on the 2011 Centennial Celebration Committee's tentative plans to present a fireworks display as a major component of the Centennial Celebration. Ten commentators participated.

Councilman Ness moved the following resolution.

**RESOLUTION NO. 07/19/2010 – 13: CENTENNIAL CELEBRATION - FIREWORKS**

**WHEREAS**, the Borough will celebrate its Centennial in 2011; and

**WHEREAS**, Council has established a Committee to formulate plans and to implement the Celebration; and

**WHEREAS**, the Committee desires to present a fireworks display as a major component of the Centennial Celebration; and

**WHEREAS**, the realization of the fireworks display will require significant advance planning, funding, consent of the Borough Council and the approval of the Chief of Police and Fire Chief; and

**WHEREAS**, the Centennial Committee has requested that the Mayor and Council now provide a sense of the Council concerning the prospects for Council's approval of a fireworks display as an element of the Borough's Centennial Celebration.

**IT IS NOW, THEREFORE**, this 19th day of July, 2010, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The incorporation of a fireworks display as a component of the Borough's Centennial Celebration is conceptually endorsed;
2. Final approval (issuance of permit) shall be subject to:
  - (a) determination of project costs, source of funding; anticipated cost to Borough, if any; identification of a fireworks contractor; and terms of contract, including but not limited to provisions for liability insurance and contractual indemnification, wherein the Borough, its officers, officials and employees are named as additional insureds.
  - (b) Review and approval of project plans, including but not limited to location of display site and/or facilities;
  - (c) Receipt of written approval of final plans from the Chief of Police and Fire Chief;
  - (d) Receipt of written confirmation that any fireworks display related claim which may be asserted against the Borough and its officials and/or employees and/or The Mantoloking Historical Society, Inc. and/or its officers is covered by the Borough's liability insurance, in such form and amount as is deemed satisfactory.

The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

**8. MAYOR AND COUNCIL COMMENTS**

Councilman Brown reminded residents to remove empty trash and recycling bins from the curb. Mayor Nebel reminded all residents that the Borough of Mantoloking will be conducting a property reassessment this Fall. Values will take effect January 1, 2011.

**9. PUBLIC COMMENTS PERIOD**

Four attendees commented on vehicle traffic on Barnegat Lane, private property clean up remediation on Bay Avenue, enforcement of the dune ordinance and the sale of a recent historical publication.

**10. NEXT MEETING** Regular Council Meeting, August 16, 2010 @ 4:30 p.m.

**11. ADJOURNMENT**

There being no further business for this meeting, it was motioned by Councilwoman Nelson to adjourn. The motion was seconded by Councilman Witkowski and approved by unanimous voice vote at 5:03 p.m.

Respectfully submitted,

Irene H. Ryan, R.M.C.  
Municipal Clerk

BY TITLE ONLY - FIRST READING  
DATE OF INTRODUCTION: \_\_\_\_\_  
DATE OF PUBLICATION: \_\_\_\_\_  
DATE OF FINAL ADOPTION: \_\_\_\_\_

**ORDINANCE NO. 590**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,  
OCEAN COUNTY, NEW JERSEY, PROVIDING FOR THE COLLECTION OF  
RECYCLABLE MATERIAL, AND PROVIDING PENALTIES FOR VIOLATIONS,  
RESCINDING ARTICLES 19-1 THROUGH 19-1.12 OF CHAPTER XIX,  
REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING AND  
ADOPTING THE FOLLOWING PROVISIONS**

BE IT ORDAINED by the Mayor and Council of the Borough of Mantoloking, in  
the County of Ocean, State of New Jersey, as follows:

Chapter XIX

**SECTION 19-1: Definitions:**

Source Separation, Exemptions  
Collection of Recyclable Materials  
Residential Dwelling Compliance Requirements  
Non-residential Establishment Compliance Requirements  
New Developments of Multi-Family Residential Units or Commercial, Institutional, or  
Industrial Properties  
Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials  
Enforcement  
Violations and Penalties

Dual Stream –

Commingled – all plastic and glass bottles; aluminum and steel cans;  
Paper – magazines, catalogues, junk mail, used writing paper, newsprint,  
cardboard, office and school paper. No chipboard or pizza boxes.

Single Stream -

The combination of commingles and paper listed above in one container. Do not  
include plastic bags, food waste, paper towels, paper napkins, pizza boxes, egg  
cartons, aluminum foil, plastic cups and utensils. No plastic other than bottles.  
No juice boxes or bags. No garbage.

Designated recyclable materials – means those materials designated within the Ocean County District Solid Waste Management Plan to be source separated for the purposes of recycling.

Electronic waste – (to be included in those instances where a recycling program has been, or will be, established for these materials. Additionally, the following definition may be changed to reflect individual municipal program requirements) shall mean a computer central processing unit and associated hardware including keyboards, modems, printers, scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including a television and cell phones;

Multifamily dwelling- means any building or structure, or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see NJSA 13:1E-99.13a.) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the “Hotel and Multiple Dwelling Law,” P.L. 1967, c. 76 (C.55: 13A-1 et seq.);

Municipal Recycling Coordinator- means the person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder.

Municipal solid waste (MSW) stream- means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the Borough of Mantoloking;

Recyclable material- means those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products;

Source-separated recyclable materials- means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

Source separation- means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

**Section 19-2: Source Separation; Exemption from Source Separation Requirements:**

A. Mandatory source separation: It shall be mandatory for all persons who are

owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Borough of Mantoloking, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Borough of Mantoloking.

B. Exemptions: Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this Chapter, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

**Section 19-3:           Collection of Recyclable Materials:**

Recyclable materials shall be as designated under the Ocean County District Solid Waste Management Plan for source separation of recyclables. The manner of collection and the collection schedule shall be in compliance with such rules and regulations as shall, by Resolution of the governing body, be promulgated from time-to-time, with specific reference to this Ordinance or any amendments hereof.

**Section 19-4:           Residential Dwelling Compliance Requirements:**

The owner of any property shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The management shall

issue notification and collection rules to new tenants when they arrive and every 6 months during their occupancy.

**Section 19-5: Non-Residential Establishment Compliance Requirements:**

A. All commercial and institutional generators of solid waste shall be required to comply with the provisions of this Ordinance.

B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.

C. Every business, institution, or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.

D. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

**Section 19-6: New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties (Pursuant to N.J.S.A. 13:1E-99.13a and 99.16c.):**

A. Any application to the planning board of the Borough of Mantoloking, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:

- 1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and
- 2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and

occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.

B. Prior to the issuance of a Certificate of Occupancy by the Borough of Mantoloking, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.

C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

**Section 19-7: Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials**

A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.

B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.

C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

**Section 19-8: Enforcement:**

The Borough Superintendent, the Department of Health, the Recycling Coordinator, and the Ocean County Department of Health are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

**Section 19-9: Violations and Penalties:**

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$25.00,

nor more than \$100.00. Each day for which a violation of this Ordinance occurs shall be considered a separate offense.

Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program.

**Section 19-10: Severability, Effective Date:**

A. In the event that it is determined, by a Court of competent jurisdiction, that any provision or section of this Ordinance is unconstitutional, all other sections and provisions shall remain in effect. This Ordinance shall take effect immediately, unless otherwise provided by Resolution of the governing body.

**NOTICE**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council of the Borough of Mantoloking, in the County of Ocean and State of New Jersey held on the 21st day of June, 2010, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey at 4:30 p.m. on the 16th day of August, 2010, or as soon thereafter as said matter may be reached, at which time and place all persons interested will be given an opportunity to be heard.

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IRENE H. RYAN, R.M.C.