

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

ORDINANCE NO.: 531

**AN ORDINANCE ADOPTING A REVISION AND CODIFICATION
OF THE ORDINANCES OF THE BOROUGH OF MANTOLOKING
IN THE COUNTY OF OCEAN, NEW JERSEY**

WHEREAS, the Mayor and Borough Council of the Borough of Mantoloking in the County of Ocean, State of New Jersey, has caused its ordinances of a general and permanent nature to be amended and supplemented and to be compiled and revised and embodied in a revision and codification known as "The Revised General Ordinances of the Borough of Mantoloking, 2007."

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

Section 1. The ordinances of the Borough of Mantoloking in the County of Ocean, New Jersey, of a general and permanent nature, as codified, in Chapters I through Chapter XXX, are hereby ordained as "The Revised General Ordinances of the Borough of Mantoloking, 2007."

Section 2. All of the provisions of "The Revised General Ordinances of the Borough of Mantoloking, 2007" shall be in force and effect on and after the effective date of this ordinance.

Section 3. All ordinances of a general and permanent nature, adopted by the Mayor and Borough Council (hereafter referred to as the "Council") and in force on October 16, 2006, and not contained in "The Revised General Ordinances of the Ryan, R. M. C. Borough of Mantoloking, 2007" are hereby repealed from and after the effective date of this ordinance, except as hereafter provided in Section 4.

Section 4. The repeal provided for in Section 3 of this ordinance shall not affect:

- a. Any offense or act committed or done or any penalty or forfeiture

incurred or any contract or right established or occurring before the effective date of this ordinance:

b. Any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance;

c. Any right of franchise conferred by the Council;

d. Any right, right-of-way or easement acquired or established in any street, road, highway or other public place within the Borough;

e. Any ordinance of the Borough providing for laying out, opening, altering, widening, relocating, straightening, acceptance or vacation of any street, road or highway within the Borough;

f. Any ordinance or resolution of the Borough promising or guaranteeing the payment of money by or for the Borough or authorizing the issuing of bonds or other evidence of the Borough's indebtedness, or any contract of or obligation assumed by the Borough:

g. The annual budget appropriation ordinances or resolution, and all ordinances and resolutions appropriating or transferring funds;

h. The administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of this Revision;

i. Any ordinance or resolution of the Council fixing compensation or salaries of the Borough officials and employees or the pay and compensation of positions and clerical employments which are not provided for in this Revision and which are not in conflict or inconsistent therewith:

j. Any ordinance or resolution of the Council creating employments, positions or offices and fixing duties therefor which are not provided for in this Revision and which are not in conflict or inconsistent therewith;

k. Concerning the Traffic Chapter, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this

ordinance shall not become effective with respect to any ordinance regulating traffic or parking on the public streets or highways until the traffic and parking chapters of this Revision are finally approved by the Commissioner of the New Jersey Department of Transportation, and said chapters shall not take effect until finally approved by the Commissioners as aforesaid;

l. Ordinances No. 248, 259 and 361, Regulating the Installation, Maintenance and Use of Alarm Devices;

m. Ordinances adopted by the Borough of Health of the Borough of Mantoloking;

n. Any ordinances of the Borough Council adopted upon final passage after the 16th day of October, 2006.

Section 5. The effects of proposed changes contained in the Revision are listed below:

Chapter I: General Provisions. Most of Chapter I is new. Sections 1-1 through 1-4 are new. Section 1-1, Short Title, provides the official title of this Code. Section 1-2, Definitions, establishes definitions for use in the entire Code or when drafting future ordinances of the Borough. Section 1-3, Construction, provides rules of construction and interpretation of general terms used throughout this Revision, as well as for all other ordinances adopted by the Borough of Mantoloking and Section 1-4 establishes the Divisions used in the Code.

Section 1-5, Penalty, contains the new penalty provisions as provided by Statute. The general penalty clause is applicable to the entire Revision or any other ordinance adopted by the Borough Council. In subsection 1-5.1, Maximum Penalty, a maximum penalty of a fine not exceeding two thousand (\$2,000.00) dollars and/or imprisonment for a term not to exceed ninety (90) days and/or a period of community service not to exceed ninety (90) days is established in accordance with State Statutes. For violation of a housing or zoning ordinance, the penalty may not

exceed one thousand two hundred fifty (\$1,250.00) dollars. Subsection 1-5.1 eliminates the need to restate the maximum penalty clause each time a new regulatory ordinance is adopted. Subsection 1-5.2, Additional Fine for Repeat Offenders provides that additional fines may be imposed on any person who is convicted of the same violation within one (1) year of the date of the previous violation. Subsection 1-5.3, Default of Payment of Fine, provides that any person who defaults on payment of a fine may be imprisoned in the County Jail or be required to perform community service. Subsection 1-5.4, Separate Violations, provides that each and every day a violation exists shall constitute a separate violation.

Section 1-6, Severability, provides for the severability of unconstitutional or unenforceable Code provisions.

Section 1-7, is new and provides that the Code shall be maintained by the Municipal Clerk, provides that the Municipal Clerk shall keep the Code up-to-date and that the Governing Body shall provide for supplements to the Code.

Section 1-8, Additions and Amendments to Code, provides that all amendments or additions to the Code if adopted to be part of the Code shall be deemed to be incorporated and part of the Code.

Section 1-9, provides that copies of the Code may be purchased from the Municipal Clerk and Section 1-11 states that it is unlawful to improperly change, amend or alter the Code without authorization.

Chapter II: Administration. This Administrative Chapter has been organized into nine (9) articles as follows:

- Article I Mayor and Borough Council
- Article II Council Meetings
- Article III Officers and Employees
- Article IV Departments Established

- Article V Municipal Court
- Article VI Boards, Committees and Commissions
- Article VII Certain Contracts and Agreements
- Article VIII Administrative Policies and Procedures
- Article IX Fees for Various Municipal Services and Permits

Article I, Mayor and Borough Council, is new and provides for the organization of the Governing Body. The establishment of rules of the Council, the powers of the Council, codification of ordinances, filling of a vacancy in elected office and the powers and duties of the Mayor.

Section 2-4, Meetings of the Council, is new and provides for the organizational meeting and regular and special meetings of Council. The section contains the requirements for a quorum and the rules of procedures, and requires that all meetings shall comply with the Open Public Meetings Act.

Section 2-5, President of the Council, is new and provides for the election and duties of the President of Council.

Section 2-6, Ordinances and Resolutions, is new and provides procedures for adoption and recording of ordinances.

Section 2-7, Municipal Clerk, provides the appointment, term qualifications, and powers and duties of the Clerk, and also provides for the appointment of a Deputy Municipal Clerk.

In Section 2-8, Chief Financial Officer, subsection 2-8.3, Duties, has been added.

Section 2-9, Tax Collector, is new and provides the appointment, duties, term, qualifications, certification required and duties.

Section 2-10, Tax Assessor, is new and provides for the appointment, qualifications, duties, term and Deputy Tax Assessor.

Section 2-11, Borough Attorney, is new and establishes the position,

qualifications, appointment and powers and duties of the attorney.

Section 2-12, Prosecutor, is new and establishes the position, qualifications, appointment, term and duties of the Prosecutor.

Section 2-13, Municipal Public Defender, has been amended to provide the application fee required for representation by the Public Defender.

Section 2-14, Borough Engineer is new and provides the appointment, term and duties of the Engineer.

Section 2-15, Borough Land Use Officer, is new and provides the appointment, term and duties of this Officer.

Subsection 2-21.1, Officer of Emergency Management, is new and provides for the appointment of an Emergency Management Council and Emergency Management Coordinator.

Section 2-22, Police Department, has been amended in subsection 2-22.1, paragraph i., to establish the Borough Council as the Appropriate Authority to establish Rules and Regulations for the Police Department as required by state statutes. In this section references to "Special Police" have been revised to "Special Law Enforcement Officers."

Section 2-31, The Municipal Court of Mantoloking, has been revised in subsection 2-31.6 to refer to the Court Administrator and Deputy Court Administrator

Subsection 2-31.7, Location of Court, has been revised to establish the location where Court is held and that the Court shall control its schedule.

Section 2-66, Payment of Claims, has been amended to refer to the duties of the Chief Financial Officer and current practices.

Subsection 2-72.1 Fees charged, has been revised to specify the fee to purchase a copy of Chapter XXX, Land Use Regulations, shall be thirty-five (\$35.00) dollars. Other fees have been revised to conform to state statutes.

Chapter III: Police Regulations. This chapter contains the regulations enforced by the Police Department which include regulations concerning disturbing the peace; noise prohibitions; nuisances; public nudity; litter; distribution of handbills; discharge of firearms; registration of bicycles and use of litter receptacles.

In many instances the violations and penalty provisions in this Code have been revised to refer to the General Penalty in Chapter I, Section 1-5.

Chapter IV: Licensing and Business Regulations. This chapter contains the requirements for licensing and regulation of business in the Borough of Mantoloking.

Section 4-1 regulates door to door commercial solicitation.

Section 4-2 permits charitable solicitation on State highways.

Ordinances No. 248, 259 and 361, which provided for the installation, maintenance and use of alarm devices, are not included in the Code but are saved from repeal in this Adopting Ordinance. (See Section 4, paragraph I.)

Chapter V: Animal Control. This chapter provides the regulations for licensing and control of dogs, nuisances by dogs; restraint of dogs on beaches or public property; authority to enter premises, annual census of dogs; disposition of fees; Agreement with Certified Animal Control Officer; violations and penalties, disposal of pet waste and the prohibition of wading wildlife in a park or on Borough property.

Chapter VI: Alcoholic Beverage Control. This chapter reiterates Ordinance No. 169 which states that no alcoholic beverage licenses shall be granted within the Borough.

Chapter VII: Traffic. This chapter contains the Traffic Ordinances of the Borough placed in accordance with the model of organization that has been recommended by the State of New Jersey Division of Motor Vehicles. This chapter

may not be enforced until approval is obtained from the Director of the Bureau of Traffic Engineering, New Jersey Department of Transportation. New and revised street regulations are included if they have been recommended by the Police Department or the New Jersey Department of Transportation and approved by the Bureau of Traffic Engineering of the Department of Transportation.

Chapter VIII is reserved.

Chapter IX: Personnel Policies. This chapter contains the policy of granting or leave of absence for municipal employees called to active military duty.

Chapter X: Beach Regulations. This chapter contains the regulations for the use of beaches and includes the sale and regulation of badges, the regulation of beach activities, prohibited activities, surfing rules and penalties for violation.

Chapter XI: Protection of Beaches and Dunes. This chapter codifies Ordinance No. 407 which provides for the preservation and protection of dunes. Subsection 11-4.3, Penalties, has been revised to refer to the General Penalty in Chapter I.

Chapter XII: Boating Regulations in Waters Adjacent to the Borough of Mantoloking. Ordinance No. 522 has been codified as Chapter XII.

Section 12-1, Definitions, has been revised to refer to the "Motor Vehicle Commission," "Commission, Boat Regulation" and "Commission, Motor Vehicle" where appropriate.

Chapter XIII: Building and Housing. This chapter includes the establishment of the Uniform Construction Code Enforcing Agency, and provides for construction permit fees, buildings unfit for human habitation and numbering of buildings.

Section 13-3, Construction Permit Fees, is a new section. It establishes the Construction Department fees, the plumbing subcode fees, the fire protection subcode fees and the electrical subcode. fees.

Chapter XIV is reserved.

Chapter XV is reserved.

Chapter XVI: Fire Prevention and Protection. This chapter provides for the Fire Code Enforcement Agency and Fire Safety Zones.

Chapter XVII: Streets and Sidewalks. This chapter contains the requirements for excavation of streets, maintenance of sidewalks and curbs, and clear view at intersections.

Chapter XVIII: Stormwater Management and Control. Chapter XVIII codifies Ordinance No. 502, Stormwater Management and Ordinance No. 506, Disposal of Materials in the Stormwater System Prohibited.

Chapter XIX: Solid Waste Management. This chapter contains recycling regulations and the requirements for the disposal of yard waste.

Chapter XX: Sewers. This chapter provides that the Borough of Mantoloking is a part of the Ocean County Sewerage Authority and also contains regulations for the use of sewers.

Chapter XXI: Cable Television. Chapter XXI codifies Ordinance No. 450, the Grant of Municipal Consent to Comcast Cable of Ocean County, New Jersey.

Chapter XXII is reserved.

Chapter XXIII: Flood Damage Prevention. Ordinance No. 525 is codified as the Flood Damage Prevention Chapter.

Chapters XXIV–XXIX are reserved.

Chapter XXX: Land Use Regulations. Chapter XXX Land Use Regulations codifies Ordinance No. 465 as amended and supplemented in toto and contains only minor editorial changes consistent with the new Code format.

Section 6. A copy of the "Revised General Ordinances of the Borough of Mantoloking, 2007" has been filed in the office of the Municipal Clerk of the Borough of Mantoloking and shall remain there for the use and examination of the public until final action is taken on this ordinance, and if this ordinance shall be

adopted, such copy shall be certified to by the Clerk in the Borough of Mantoloking by impressing thereon the seal of the Borough of Mantoloking, as provided by law, and such certified copy shall remain on file in the office of the Municipal Clerk of the Borough of Mantoloking to be made available to persons desiring to examine the same during all times while the Revision is in effect.

Section 7. Amendments to the Revision. Any and all additions, amendments or supplements to the Revision when passed and adopted in such form as to indicate the intent of the Borough Council to make them a part thereof shall be deemed to be incorporated into such revisions so that reference to "The Revised General Ordinances of the Borough of Mantoloking, 2007" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments and supplements to the Revision shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the book containing the Revised General Ordinances as amended and supplemented thereto.

Section 8. It shall be the duty of the Municipal Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing "The Revised General Ordinances of the Borough of Mantoloking, 2007" required to be filed in the Clerk's office for the use of the public. All changes in the Revision and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Revision and shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to the Code, at which time such supplements shall be inserted therein.

Section 9. The Municipal Clerk of the Borough of Mantoloking, pursuant to law, shall cause to be published in the manner required by law a copy of this adopting ordinance in a newspaper of general circulation in the Borough of Mantoloking. Sufficient copies of the Revised General Ordinances of the Borough

of Mantoloking 2007 shall be maintained in the office of the Municipal Clerk for inspection by the public, at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Revision for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Revision for all purposes.

Section 10. Copies of the book containing "The Revised General Ordinances of the Borough of Mantoloking, 2007", may be purchased from the Municipal Clerk upon the payment of a fee to be set by resolution of the Council which may also arrange by resolution the procedures for the periodic supplementation thereof.

Section 11. Each section of "The Revised General Ordinances of the Borough of Mantoloking, 2007" and every part of each section is an independent section or part of a section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

Section 12. This ordinance shall take effect immediately upon final passage and publication thereof according to law.

Throughout the Code revisions have been made to refer to the appropriate enforcing agent or agency. In many instances the revisions now refer to the Chief Financial Officer, the Construction Official or the Engineer as the case may be.

Throughout the Code there has been reorganization and editing of the source ordinances, not to effect substantive changes, but rather intended to eliminate word duplications and overlapping and to effect uniformity of expression. In some cases provisions of the source ordinances have not been included in the Revision, where they have been expressly or impliedly repealed by later ordinances, they are obsolete or they no longer apply in the Borough of Mantoloking.

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 for the Borough of Mantoloking, in the County of Ocean and State of New Jersey, held on January 16, 2007, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey, at 4:30 p.m. p.m. on

_____, 2007, 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.

Irene H. Ryan, R. M. C.