

**ORDINANCE NO. 544**

**AN ORDINANCE AMENDING CHAPTER XXX, LAND USE REGULATIONS,  
OF THE MUNICIPAL CODE OF THE  
BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY.**

**WHEREAS**, the Borough of Mantoloking adopted a comprehensive revision of its Zoning and Land Use Regulations by the final adoption of Ordinance No. 465, known as the Land Use Ordinance of the Borough of Mantoloking; and

**WHEREAS**, the Land Use Ordinance has now been codified in a Municipal Code adopted by the Borough of Mantoloking,

**WHEREAS**, the Borough now deems it appropriate to amend further the provisions of the Land Use Regulations of the Municipal Code of the Borough of Mantoloking;

**WHEREAS**, the text in this Ordinance that is presented in plain font represents text that will be unchanged by the Ordinance; text that is ~~stricken~~ represents text that will be deleted; and text that is underlined represents text that will be added by the Ordinance;

Now, therefore, **BE IT ORDAINED** by the Borough Council of the Borough of Mantoloking, in the County of Ocean, State of New Jersey, as follows:

**SECTION ONE**: Section 30-2.2, Definitions, is amended by the addition of the following at page 3009 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**HABITABLE AREA** – A fully enclosed space with a roof, floor and sides; a mere enclosed passageway shall not constitute a habitable area. Habitable area does not include garage, dedicated laundry and equipment rooms for heating, air conditioning, and pool filters or heaters. Cellars shall not be constructed or utilized for habitation.

**HABITATION** – The act of using a dwelling for living, sleeping, eating, and cooking, all under one contiguous roof. A dwelling used for habitation shall have facilities necessary for all such purposes. Cellars, unimproved attic space, and garages may not be used for habitation.

**HALF STORY** – The space under a sloping roof above the second story which has the line of intersection of the roof and wall face not more than two feet above the floor level

and in which space the possible floor area with headroom of five feet or less occupies at least fifty percent (50%) of the floor area of the second story and the floor area of finished living space with headroom of five feet or more occupies less than thirty three and one-third percent (33 and 1/3%) of the floor area of the second story below. See Appendix B, Bulk Standards.

**SECTION TWO:** section 30-4.2, General Regulations, shall be amended by the addition of the following at page 3034 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

J. Garages constructed in a “V” zone as indicated on the Borough’s Flood Insurance Rate Map (FIRM) as issued by FEMA shall be properly elevated on piles or columns and constructed with the lowest horizontal member having a minimum clearance of one foot (1’) above the Base Flood Elevation (BFE) or shall be constructed with breakaway panels, insect screens or open lattice work in accordance with design guidelines provided under FEMA Technical Bulletin 9-99 entitled “Design and Construction Guidance for Breakaway Walls Below Elevated Coastal Buildings.” All construction for garages and accessory structures in the “V” zone shall comply with FEMA guidelines and the Borough of Mantoloking’s Flood Damage Prevention Ordinance, No. 452..

K. All zoning permits issued by the Land Use Officer shall expire upon the earliest of the following events to occur, unless the applicant has substantially relied upon the issuance of the zoning permit:

- i. one (1) year after date of issuance of the permit;
- ii. the adoption of an ordinance amendment which renders the permit noncompliant with the provisions of the ordinance; or
- iii. upon the amendment of the plans on which the permit was based and issued, where the amendments affect the zoning of the property.

Exceptions are as follows:

- iv. Temporary Facilities permits shall be valid for six (6) months [180 calendar days]. Thereafter, an extension of the permit must be obtained.
- v. Tent permits are valid for the time stipulated in Section 4.13.
- vi. Time limits for permits issued as a result of the granting of a variance by the Board shall be in accordance with the conditions stipulated in the Board’s resolution of approval.

**SECTION THREE:** Section 30-4.4, Off Street Parking Design, shall be amended by the addition of the following at page 3038 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

8. Any lighting used to illuminate any off street parking shall be arranged in accordance with a lighting plan to be submitted for review to the Borough Engineer and designed so as to reflect the light away from adjoining streets and abutting improved property. See Section 4.11.

9. Parking spaces, as defined in Paragraph 4.4A, shall be located at least seven feet (7') from the edge of pavement or three feet (3') from the edge of a sidewalk, whichever is greater.

10. Driveways shall be no closer than twenty-five feet (25') from any roadway intersection, measured from the point where the two edges of pavement or curb intersect.

**SECTION FOUR:** Section 30-4.12, Satellite Dish Antennas, shall be deleted and replaced with the following at page 3044 of the Revised General ordinances of the Borough of Mantoloking, 2006:

All satellite dish antennas shall have a maximum diameter of ~~eighteen inches (18")~~ one meter (39.37 inches)

**SECTION FIVE:** Section 30-4.13 Tents, shall be amended by the deletion of paragraphs (A) and (B) and their replacement with the following at page 3044 of the Revised General ordinances of the borough of Mantoloking, 2006:

- A. Tents may be erected in residential zones for use only as a temporary ~~facility~~ building. They may not be utilized for habitation.
- B. ~~Tents may not be sited east of the foreslope of any ocean front dune or within any setback area of a lot.~~ Tents may not be sited within ten (10) feet of any side front, or rear property line except on waterfront lots where they may be sited up to the bay front, lagoon front, or ocean scarp line.
- C. Any resident, owner, occupant or their agent, must obtain a municipal permit before any tent is erected. The application for a municipal tent permit shall include a sketch map depicting the proposed location of the tent and shall state the date and time when the proposed tent will be erected. The permit shall expire five (5) days following erection of the tent and the tent shall be removed before expiration of the permit.

**SECTION SIX:** Section 30-4, General Provisions, shall be amended by the addition of a new Section 30-4.17, First Floor Elevations, as follows, at page 3046 *et seq.* of the Revised General Ordinances of the Borough of Mantoloking, 2006:

30-4.16 Critical Facilities.

- a. New Critical Facilities, as defined in the National Flood Insurance Program (NFIP) Rules, Section 130, shall not be constructed within the five hundred (500) year flood plain.
- b. Any presently existing critical facilities which may hereafter be substantially improved shall be protected to the five hundred (500) year flood level. (Ord. No. 499 §1)

**30-4.17 First Floor Elevations**

For all new or substantially improved residential construction, the first floor elevation shall be built a minimum of two feet (2') above the base flood elevation (BFE). The BFE shall be as identified on the current Flood Insurance Rate Map (FIRM) as prepared for or by the Federal Emergency Management Agency (FEMA).

**SECTION SEVEN:** Section 30-4, General Provisions, shall be amended by the addition of a new Section 30-4.18, Soil Erosion and Sediment Control, as follows, at page 3046 *et seq.* of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**30-4.18 Soil Erosion and Sediment Control (SESC)**

Applicants shall obtain a Soil Erosion and Sediment Control (SESC) Certification from the Ocean County Soil Conservation District Office, when required, and shall submit a copy of the certification and certified plan to the Borough Land Use Officer prior to the disturbance of any land.

**SECTION EIGHT:** Section 30-4, General Provisions, shall be amended by the addition of a new Section 30-4.19, Hardscaping, as follows, at page 3046 *et seq.* of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**30-4.19 Hardscaping**

- A. For the purpose of this Ordinance, the term “hardscaping” is deemed to include paver walkways or patios and the like, asphalt, concrete, and all else placed on or in the surface of the land.
- B. Prior to the installation of any hardscaping within the Borough, an application for a hardscape permit, with the required fee, shall be submitted to the Land Use Officer for approval.

- C. Accompanying the application for a hardscape permit shall be a property survey map, similar in all respects to that described in Section 5.4, which identifies all proposed hardscaping and includes lot coverage and total impervious lot coverage calculations.

**SECTION NINE:** Section 30-6.1, Establishment of Zones, is amended by the deletion of Paragraph A, Zoning Districts, and its replacement with the following, at page 3068 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**A. Zoning Districts**

For the purpose of this chapter, the Borough of Mantoloking is hereby divided into the following zones, differentiated according to use, area and bulk requirements, to be designated as follows:

R1	Single-Family Residential
R2A	Single-Family Residential
R2B	Single-Family Residential
R3A	Single-Family Residential
R3B	Single-Family Residential
R3C	Single-Family Residential
R4A	Single-Family Residential
R4B	Single-Family Residential
R5A	Single-Family Residential
R5B	Single-Family Residential
R6A	Single-Family Residential
R6B	Single-Family Residential
OS	Open Space
B	Business
PU	Public Use

**SECTION TEN:** Section 30-6.4, Open Space Zone, shall be deleted and replaced with the following, at page 3070 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**30-6.4 Open Space Zone**

1. Lots in the Open Space Zone shall be preserved from development. No buildings or structures may be constructed in the Open Space Zone.
2. When a lot is in an Open Space Zone and is adjacent to a lot in a residential zone, and both lots are under common ownership, only the lot area within the residential zone will be used for the calculation of lot area as defined in this ordinance. An exception shall apply to lots abutting on Barnegat Bay, or on the north and south lagoons, where the front yard is

considered the area between any building and the bulkhead. In such lots, any area of the front yard which is located in the Open Space Zone may be included in the calculation of lot area.

**SECTION ELEVEN:** Section 30-6.8(B) shall be deleted and replaced with the following, at page 3072 of the Revised General Ordinances of the borough of Mantoloking, 2006:

**A. Lot Coverage by Zone**

Lot coverage permitted in the Borough in all zones shall be as set forth in Appendix B, Bulk Standards.

**B. Calculation of Lot Coverage by Zone (Bulk Standards)**

1. The calculation of lot coverage for determining compliance with the bulk standards by zone set forth in Appendix B will include the following:

- a. All area under a solid roof, whether or not the area is enclosed with walls (i.e., entrance porches, balconies, breezeways, carports, etc.);
- b. Detached structures;
- c. Impermeable or impervious areas;
- d. Areas under awnings with leg supports, or those that extend more than three (3) feet out from a structure. When a permanent awning has leg supports, or extends more than three feet (3') out from a building, the total area under the permanent awning shall be included as lot coverage;
- e. Areas under eaves or other type of roof extensions more than two and one-half (2.5) feet; and When a roof eave or other type of roof extension is more than two and one-half feet (2 ½') out from a building, the area extending more than two and one-half feet (2 ½') out from the building shall be included as lot coverage.
- f. Decks which are more than eight (8) inches above existing grade.

2. Pavers set in sand or fine stone are considered an impervious area and shall be calculated at 80% for lot coverage purposes.

3. The calculation of lot coverage will not include the following:

- a. Decks which are less than eight inches above existing grade;
- b. Swimming pools; or
- c. Areas covered with gravel, crushed stone, lawns or other vegetation.

**SECTION TWELVE:** Section 30-6.8, Lot Coverage, is amended by the addition of the following at page 3073 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**C. Total Impervious Lot Coverage for All Zones**

In all events, the maximum lot area which may be covered by buildings, structures, areas under roofs, awnings or eaves, decks, swimming pools, or impervious areas shall be forty five percent (45%). This requirement shall apply to all lots in all zones within the Borough.

The total lot coverage percentage for all elements included in lot coverage under subsection B(1)(a) through (f) shall be added to the total percentage of lot coverage attributable to the 80% of areas covered by pavers [as set forth in subsection B(2)], as well as elements excluded from lot coverage under subsections B(3)(a) and (b) [i.e., decks which are more than eight inches (8") above existing grade and swimming pools.] The combined total may not exceed forty five percent (45%).

#### **D. Removal of Existing Site Improvements**

In the event the existing lot coverage on a property exceeds the allowable amount and the applicant is proposing to replace part of the existing improvement in like kind, or with alternate materials, or in different locations, ~~the excess lot coverage shall be reduced by at least twenty five percent (25%). Further, whether existing lot coverage exceeds or does not exceed the allowable, and coverage is proposed in one location of the property in exchange for or in place of coverage in another location~~ on the property, the coverage to be removed shall be removed prior to any new construction of proposed coverage, unless it is demonstrated to the satisfaction of the Land Use Officer that removal of existing coverage would present an unsafe condition to the occupants of the home.

**SECTION THIRTEEN:** Section 30-6.13, Fences, is amended by the addition of the following at page 3077 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

- I. Upon review of the application, the Land Use Officer shall, within 10 days, either issue a permit for construction or installation of such fence or deny the application with written reasons provided therefore. If the Land Use Officer fails to act upon the application as required herein, then the permit shall be deemed to have been issued by the Land Use Officer's inaction.
- J. No owner shall replace any existing fence without first obtaining a fence permit from the Land Use Officer.
- K. No owner may replace more than thirty (30) linear feet of an existing fence in any one calendar year, unless the fence's height complies with the provisions of this ordinance. An owner may replace thirty (30) linear feet or less of an existing fence in a given calendar year at the same height as the existing fence, even if the height does not comply with the provisions of this ordinance.

**SECTION FOURTEEN:** Section 30-7.8 Electric, Telephone, Potable Water, Gas, Generators & Other Utilities shall be deleted and replaced with the following at page 3082 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

For all site plans, subdivisions and new construction, the applicant shall arrange with the applicable utility companies for underground installation of the utilities (including but not limited to electric, telephone and cable service), distribution supply lines and service connections. No above ground utility installation shall be permitted. All electric and gas generators installed upon the property may be installed within the garage and cellar or outdoors. Any generator installed outdoors shall be located within the building envelope, and shall not be considered an accessory structure. A generator located outdoors shall be screened with lattice, open board fence, shrubbery or plantings which allow the circulation of air and dispersal of fumes. All generators shall be equipped with sound attenuation devices to reduce the sound produced by the generator ~~to a maximum of fifty (50) decibels (dBA) at the property line nearest the generator.~~ . Notwithstanding anything contained in the Ordinances of the Borough of Mantoloking to the contrary, for the purposes of this section a generator shall be able to be operated to a maximum of seventy five (75) decibels (dBA) at the property line nearest the generator. See N.J.A.C. 5:21-4.12 (underground wiring) and N.J.A.C. 5:21-5.1 et seq. (water supply system). (Ord. No. 465 § 7.8)

**SECTION FIFTEEN:** Appendix B, is amended by the addition of the following Footnote at page 30B01 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

6. On corner lots, the provisions for sight triangles would prevail.
7. See Land Use Ordinance for definition of Footprint Area.
8. The minimum front yard setback for lots with front yards on Ocean Avenue in the R-2B zone is fifty feet (50’).
9. The maximum building height for properties south of Lyman Street, and east of Ocean Avenue, in the R-3B Zone is forty feet (40’).

**SECTION SIXTEEN:** Appendix C, Fees, is deleted and replaced with the attached Appendix C at page 30C01 of the Revised General Ordinances of the Borough of Mantoloking, 2006:

**SECTION SEVENTEEN:** This Ordinance shall become effective upon its final passage and publication as required by law.

**APPENDIX C – FEES**

<b>APPLICATION TYPE</b>	<b>APPLICATION FEE</b>	<b>ESCROW AMOUNT</b>
A. Variances		
1. Hardship (C) (1) [N.J.S.A. 40:55D-70(c)(1)]		
a. residential	\$850	\$1,500
b. commercial	\$1,050	\$2,000
2. Use (C) (2) [N.J.S.A. 40:55D-70 (c) (2)]		
a. single family residential	\$850	<del>\$1000</del> <u>\$1,500</u>
b. multi family residential	\$850	<del>\$1000</del> <u>\$1,500</u>
c. commercial	\$1,050	\$2,000
3. Special (D)	\$850	<del>\$1000</del> <u>\$1,500</u>
a. commercial	\$1,050	\$2,000
B. Appeals	\$500	\$500
C. Interpretation	\$500	\$500
D. Informal conceptual plan	\$350	\$300
E. Construction permit in lieu of mapped street, etc....	\$200	\$300
F. Special meeting (max 2 ½ hrs. before the Board)	\$1,000	\$1,500
G. Fire safety review	\$125	---
H. Subdivisions	\$1,500	\$2,000
I. Sketch Plat		
1. Subdivision	\$500	\$350
2. Site plan	\$500	---
J. Preliminary Plat		
1. Subdivision	\$800	\$850 + \$100/unit
2. Site plan	\$800	\$850 + \$200/acre
K. Final Plat		
1. Subdivision	\$400	\$400 + \$50/unit
2. Site plan	\$400	\$400 + \$100/acre
L. Tent	\$46	
M. Fire Inspection	\$46	
M. Fence	\$25	
N. Deck	\$40	
O. Pool	\$75	
P. Certificate of Occupancy	Per Uniform Construction Code	
Q. Portable Sanitary Facilities permit (per unit)	\$25	
R. Dumpster permit (per unit)	\$25	
S. Construction Trailer permit (per unit)	\$25	
T. Garage sale permit	\$25	
U. <del>Landscap</del> <u>Hardscape</u> permit	<u>\$50</u>	
V. Zoning permit	\$25	
W. Surface Water Management Plan review fee	\$75	
X. Zoning permit Resubmission	\$100	

NOTICE

Notice is hereby given that the foregoing Ordinance No. 544 was introduced and passed on first reading at the regular meeting of the Mayor and Council of the Borough of Mantoloking, County of Ocean, State of New Jersey, held on the 19<sup>th</sup> day of November, 2007. And that a public hearing was held thereon at a regular meeting of said Mayor and Council at the Borough Hall on the 17<sup>th</sup> day of December, 2007 at which time and place said ordinance was passed on second and final reading and became effective as of that date.

George C. Nebel  
MAYOR