

**DRAFT #4 (06/24/2013)**

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

**AGENDA – REGULAR BUSINESS MEETING**

**June 25, 2013**

**4:30 P.M.**

**Mantoloking Yacht Club**

**1224 Bay Avenue**

**Mantoloking, New Jersey**

The regular monthly meeting of the Mayor and Council will be held this day in the Mantoloking Yacht Club, Mantoloking, New Jersey.

- 1. CALL TO ORDER:**                      **TIME:**
  
- 2. OPEN PUBLIC MEETING STATEMENT:** Mayor Nebel will 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:**  
    **Absent:**  
  
    **Also Present:**
  
- 4. PLEDGE OF ALLEGIANCE:** The Mayor will lead the assembly in the Pledge of Allegiance.
  
- 5. PRIVILEGE OF THE FLOOR:** The Mayor will open the meeting for public comment and questions about the agenda.
  
- 6. MINUTES OF PREVIOUS MEETINGS:**  
    Special Meeting of April 8, 2013 and Regular Meeting of April 23, 2013.
  
- 7. COMMITTEE REPORTS AND RECOMMENDATIONS**

**FINANCE COMMITTEE, COUNCILMAN STEVE GILLINGHAM**

**A.** Councilman Gillingham will present the monthly finance report.

**B. Action Items:**

Councilman Gillingham moves the following \_\_\_\_\_ resolutions.



**WHEREAS**, the Local Budget law, constituting Chapter 4 of Title 40A of the New Jersey Statutes, as amended and supplemented (the “Local Budget Law”), provides that a municipality may adopt a resolution authorizing special emergency appropriations to cover the cost of extraordinary expenses for the repair, reconstruction of streets, roads or bridges, or other public property damaged by flood or hurricane, including debris removal, where such expenses were not anticipated or foreseen at the time of adoption of the annual budget; and

**WHEREAS**, on December 17, 2012 the Mayor and Council of the Borough of Mantoloking, County of Ocean, State of New Jersey (the “Borough”) did adopt Resolution #12/17/2012-06 of 2012 authorizing a special emergency appropriation in the amount of \$2,000,000.00, on February 26, 2013 Resolution #02/26/2013-09 of 2013 authorizing a special emergency appropriation in the amount of \$2,000,000.00 and on April 8, 2013 Resolution #04/08/2013-01 of 2013 authorizing a special emergency appropriation in the amount of \$3,100,000.00 for an aggregate amount of \$7,100,000.00 to cover the costs to repair and reconstruct damages to streets, roads, sewer systems, other public property, including debris removal, and all other expenses caused by Hurricane Sandy; and

**WHEREAS**, in accordance with Section 55 of the Local Budget Law, the Borough is required to adopt a resolution setting forth the amount appropriated and other terms and conditions associated with the issuance of “Special Emergency Notes”.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY** (with the affirmative concurrence of not less than two-thirds of all members thereof), **AS FOLLOWS:**

**Section 1. Authorization of the Notes.** The issuance and sale of negotiable “Special Emergency Notes” of the Borough in an aggregate principal amount of \$5,800,000.00 , to be designated “Borough of Mantoloking, Special Emergency Notes of 2012 (the “Notes”), are hereby authorized and approved for the purpose of funding the cost of repairs and reconstruction of streets, roads, sewer systems, other public property , including debris removal, and other expenses incurred by the Borough as a result of damages caused by Hurricane Sandy, in accordance with the terms of Resolutions#12/17/2012-06, #02/26/2013-09, and #04/08/2013-01 .

**Section 2. Form and Terms of the Notes.** The following matters in connection with the Notes are hereby determined:

- a) The Notes shall be substantially in the form annexed hereto as Exhibit “A” and shall be executed on behalf of the Borough by the signatures of the Mayor, the Chief Financial Officer, and the Borough Clerk, under the affixed, imprinted or reproduced seal of the Borough.
- b) The Notes shall be dated the date of delivery thereof, may be renewed from time to time, but at least 1/5<sup>th</sup> of all such notes, including renewals thereof, shall mature and be paid in each year such that all notes and renewals thereof shall have matured and be paid no later than the last day of the fifth year following the date of this Resolution.
- c) The Chief Financial Officer is hereby authorized to sell and award the Notes at not less than par and accrued interest, if any, either by public sale or negotiated private sale as determined by the Chief Financial Officer. The Chief Financial Officer shall report in writing to Mayor and the Council, at the next meeting thereof, the amount, description, interest rate and maturities of the Notes, the price obtained and the name of the purchaser, and such report shall be entered in full on the minutes of such meeting.
- d) The Mayor, the Chief Financial Officer and the Borough Clerk of the Borough of Mantoloking are hereby severally authorized and directed to determine all matters in connection with the Notes not determined by this, a prior or a subsequent resolution and their signatures upon any document reflecting any such determination, including the Notes, shall be conclusive as to such determinations.

**Section 3. Tax Covenants.** The Borough covenants that it will not take any action, or fail to take any action if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on

any obligations issued hereunder Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The Borough will not directly or indirectly use or permit the use of any proceeds of any obligations issued hereunder or any other funds of the Borough, or take or omit to take any action, that would cause such obligations issued hereunder to be "arbitrage bonds" within the meaning of Section 148(a) of the Code. To that end, the Borough will comply with all requirements of Section 148 of the Code to the extent applicable to any obligations issued hereunder. In the event that at any time the Borough is of the opinion that for purposes of this Section 3 it is necessary to restrict or limit the yield on the investment of any proceeds of any obligations issued hereunder held by or on behalf of the Borough, the Borough shall take such action as may be necessary to effect such restriction.

Without limiting the generality of the foregoing, the Borough shall pay or cause to be paid from time to time all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to any obligations issued hereunder and such notes from time to time. This covenant shall survive payment in full or defeasance of any obligations issued hereunder.

Notwithstanding any provision of this Section 3, if the Borough obtains an opinion of nationally recognized bond counsel or recognized Borough Attorney to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on any obligations issued hereunder pursuant to section 103 of the Code, the Borough may rely conclusively on such opinion in complying with the provision hereof, and the covenants hereunder shall be modified to the extent set forth in such opinion without further action by the Borough.

**Section 4. General Obligation Pledge.** The Notes are direct, unlimited obligations of the Borough and full faith, credit and taxing power of the Borough are hereby irrevocably pledged for the payment of principal of and interest on the Notes when due and payable. The Borough shall levy ad valorem taxes upon all the taxable property within the Borough for the payment of principal and interest on the Notes without limitation of rate or amount.

**Section 5. Ratification of Prior Actions; Authorization to Effect Settlement.** All actions heretofore taken and documents prepared or executed by or on behalf of the Borough by the Mayor, Borough Council, The Borough Clerk, the Chief Financial Officer or by the Borough's professional advisors, in connection with the issuance and sale of the Notes including, without limitation, solicitation from financial institutions of proposals to purchase the Notes, are hereby ratified, confirmed, approved and adopted. The Mayor, the Chief Financial Officer and the Borough Clerk are hereby authorized and directed to determine all matters and execute all documents and instruments in connection with the Notes not determined or otherwise directed to be executed by the Local Budget Law, or by this or any subsequent resolution, and the signatures of the Mayor, the Chief Financial Officer and the Borough Clerk on any such document or instrument shall be conclusive as to such determinations. Settlement of the sale of the Notes shall be as soon as is practicable.

**Section 6. Repeal.** All resolutions or parts thereof to the extent inconsistent herewith are hereby repealed and rescinded.

**Section 7. Effective Date.** This Resolution shall take effect immediately upon adoption, this 25<sup>th</sup> day of June 2013.

**PUBLIC HEARING:** Mayor Nebel will open the meeting to the public for a hearing on the 2013 MUNICIPAL BUDGET.

Councilman Gillingham moves the following resolution:

**RESOLUTION: APPROVAL OF THE 2013 MUNICIPAL BUDGET**

**WHEREAS**, on May 20, 2013 the Mayor and Council approved summary statements of revenues and appropriations and determined that they constitute the Municipal Budget for the year 2013 and;

**Revenue and Appropriation Summaries**

<u>Summary of Revenues</u>	<u>Anticipated Revenues</u>	
	<u>2013</u>	<u>2012</u>
1. Surplus	\$528,000.00	\$531,500.19
2. Total Miscellaneous Revenues	2,813,626.96	547,697.75
3. Receipts from Delinquent Taxes	70,000.00	50,000.00
4. Local Tax for Municipal Purposes	2,259,678.00	2,920,124.00
Total General Revenues	<u>\$5,671,304.96</u>	<u>4,049,321.94</u>
<u>Summary of Appropriations</u>	<u>Appropriations</u>	
	<u>2013</u>	<u>2012</u>
1. Operating Expenses: Salaries and Wages	\$1,629,920.00	\$1,462,150.00
Other Expenses	1,756,692.96	1,580,044.59
2. Deferred Charges and Statutory Expenditures	1,937,000.00	282,100.00
3. Capital Improvements	85,500.00	51,500.00
4. Debt Service	6,000.00	356,500.00
5. Reserve for Uncollected Taxes	256,192.00	302,434.19
Total General Appropriations	<u>\$5,671,304.96</u>	<u>\$4,034,728.78</u>
<u>Total Number of Employees (full and part-time)</u>	<u>59</u>	<u>59</u>

**Balance of Outstanding General Debt Obligations**

Interest	\$0.00
Principal	0.00
Outstanding Balance at December 31, 2012	0.00

now, therefore, be it

**WHEREAS**, since its approval, the proposed municipal budget for 2013 has been:

- Available for public review,
- Advertised as required by law, and
- The subject of a public hearing in the Mantoloking Yacht Club at 4:30 pm June 25, 2013; now, therefore be it

**RESOLVED**, the Mayor and council of the Borough of Mantoloking, Ocean County, New Jersey, hereby approves this budget for 2013 in full compliance with the Local Budget Law, N.J.S. 40A:4-1 et seq. and authorizes the Borough Clerk to include a complete copy of this adopted budget as part of the minutes of this meeting.

This resolution was moved by Councilman Gillingham, seconded by \_\_\_\_\_ and approved by the following roll-call vote:

- AYE:
- NAY:
- ABSTAIN:
- ABSENT:

**PUBLIC SAFETY COMMITTEE, COUNCILMAN ROBERT MC INTYRE:**

**A. Reports of the Public Safety Committee:** Councilman McIntyre will present the reports of the Police Department, Municipal Court, Fire Company and Emergency Management.

**B. Action Items:**

Councilman McIntyre moves the following \_\_\_\_\_ resolutions.

**RESOLUTION: APPOINTMENT OF PERSONNEL**

*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>Dana Tresitto</i>	<i>Badge Checker</i>	<i>June 24, 2013</i>	<i>\$8.50/Hour</i>
<i>Alyssa Tresitto</i>	<i>Badge Checker</i>	<i>June 24, 2013</i>	<i>\$8.50/Hour</i>

**RESOLUTION: APPLICATION FOR MEMBERSHIP-MANTOLOKING FIRE COMPANY NO. 1, JEANNE HULSE**

**WHEREAS,** Jeanne Hulse has applied for membership in the Mantoloking Fire Company No. 1; and

**WHEREAS,** the fire company has approved the application; and

**WHEREAS,** pursuant to the provisions of the By-Laws of the Mantoloking Fire Company No. 1, all applications are also subject to approval of Council.

**IT IS NOW, THEREFORE,** this 25<sup>th</sup> day of June, 2013, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the application of Jeanne Hulse is hereby approved.

**PUBLIC HEARING:** Mayor Nebel will open the meeting for a public hearing on Ordinance No. 623, Beach Regulations Amendment.

Councilman McIntyre moves the following resolution:

**RESOLUTION: ADOPTION OF ORDINANCE NO. 623 – BEACH ACCESS REGULATIONS AMENDMENT**

**WHEREAS,** on the 25<sup>th</sup> day of June, 2013 a public hearing on Ordinance No. 623 was held and \_\_\_\_\_ 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:

**ORDINANCE NO. 623  
AN ORDINANCE AMENDING CHAPTER X OF THE REVISED GENERAL  
ORDINANCES OF THE BOROUGH OF MANTOLOKING, 2007**

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

1. Sub-Article 10-2.2 – Definitions, is amended by the addition of:

“Cooler – a device, container or apparatus which is utilized to keep things cool.”

2. All other provisions of the Ordinance to which this is an amendment shall remain in full force and effect.
3. This Ordinance shall be effective upon final adoption.

**PUBLIC WORKS COMMITTEE, COUNCILWOMAN BETH NELSON**

- A. **Reports of the Public Works:** Councilwoman Nelson will present reports from the Public Works Superintendent, Construction Official and Land Use Officer.
- B. Action Items:

Councilwoman Nelson moves the following \_\_\_\_ resolutions:

**RESOLUTION: ACCEPTANCE OF RESIGNATION, JAMES L. ANDERSON**

*RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey accepts the following resignation(s):*

<i>Name</i>	<i>Position</i>	<i>Effective Date</i>
<i>James L. Anderson</i>	<i>Tax Assessor/Tax Appeal Agent</i>	<i>June 30, 2013</i>

**RESOLUTION: APPOINTMENT OF PERSONNEL**

**Whereas**, the *Revised General Ordinances of the Borough of Mantoloking 2007 (2-10)* require the Mayor with the advice and consent of the Borough Council to appoint a Tax Assessor for a term of four years, and

**Whereas** the duties and rights of that position are established by the *Revised General Ordinances of the Borough of Mantoloking 2007 (2-10.3)* and *N.J.S.A. 54:1-35.25 et seq., and*

**Whereas** the Mayor has declared his intention to appoint Gary DalCorso to that position and the corollary position of Tax Appeal Agent, now, therefore, be it

**Resolved** the Borough Council of Mantoloking, Ocean County, New Jersey approves the following appointment with the terms and conditions indicated and authorizes the Mayor and Clerk to execute an appropriate contract:

<i>Name</i>	<i>Position</i>	<i>Effective Date</i>	<i>Salary</i>
<i>Gary DalCorso</i>	<i>Tax Assessor/Tax Appeal Agent</i>	<i>July 1, 2013 – June 30, 2017</i>	<i>\$14,950.00/Annual</i>

**RESOLUTION: PAYMENT ESTIMATE NO. 2 – RESIDENTIAL DEMOLITION AND DEBRIS REMOVAL PROJECT**

**WHEREAS**, the Borough has entered into a Contract with Tricon Enterprises, Inc. (Contract No. 2013-4, FEMA PPDR Program) to provide residential demolition and debris removal: and

**WHEREAS**, the Contractor has submitted Payment Application No. 2 in the sum of \$283,892.28; and

**WHEREAS**, it is deemed to be in the public interest to accept Payment Application No. 1; and

**WHEREAS**, the Borough Engineer, Lawrence Plevier, P.E. (Hatch Mott MacDonald) has, by letter dated June 19, 2013, (Exhibit A, attached) recommended Payment Application No. 2 be paid.

**IT IS NOW, THEREFORE**, this 25<sup>th</sup> day of June, 2013, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that Payment Application No. 2 is hereby approved and shall forthwith be executed by the Mayor and Borough Clerk.

**RESOLUTION: PROVIDING FOR CHANGE ORDER NO. 4 FOR RESIDENTIAL DEMOLITION AND DEBRIS REMOVAL PROJECT**

**WHEREAS**, the Borough has entered into a Contract with Tricon Enterprises, Inc. (Contract 2013-4) to provide Residential Demolition and Debris Removal Project, (FEMA PPDR Program); and

**WHEREAS**, due to the need to adjust and revise the estimated quantity of Contract Bid Item No. 2 for standard demolition based on the estimated quantity of material to be removed and disposed of as nonfriable ACM, and to compensate the Contractor for the demolition, removal, and disposal of residential structures containing nonfriable asbestos for compliance with the requirements of regulatory agencies.

**WHEREAS**, it is deemed to be in the public interest to accept Change Order No. 4; and

**WHEREAS**, the Borough Engineer, Lawrence Plevier, P.E. (Hatch Mott MacDonald) has, by letter dated June 21, 2013, (Exhibit B, attached) recommended the execution of Change Order No. 4 which added to an overall increase of \$114,000.00 of the total cost of the project which is \$3,307,945.00.

**IT IS NOW, THEREFORE**, this 25<sup>th</sup> day of June, 2013, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that Change Order No. 4 is hereby approved and shall forthwith be executed by the Mayor and Borough Clerk.

**RESOLUTION: PROVIDING FOR AMENDMENT OF PROPOSED ORDINANCE 621 SOIL DISTURBANCE**

**WHEREAS**, the above Ordinance was the subject of a public hearing on May 20, 2013; and

**WHEREAS**, action (consideration for final adoption) was deferred pending consideration of amendments; and

**WHEREAS**, amendments, set forth below, have been recommended by the Borough Engineer.

**IT IS NOW, THEREFORE**, this 25<sup>th</sup> day of June, 2013, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that proposed Ordinance 621, Soil Disturbance Ordinance, be amended as follows:

1. Definitions: Add:

“Landscape Stone – Any type of rock that has been selected or processed by cutting, shaping, or sizing for use in driveway construction, infiltration trenches, walkways, or for decorative purposes, including final surface cover or stone mulching. Crushed shells shall also be considered as landscape stone for the purpose of this chapter.”; and

2. Article c., Application requirements, add:

“3(d). When the applicant is performing only top dressing or installation of landscape stone. However, all landscape stone shall be clean, as defined in this chapter, for any amount of volume of landscape stone imported to any property within the Borough of Mantoloking, and all landscape stone installation and grading activities shall not negatively impact adjacent properties or public rights-of-way, including the redirection of storm water surface runoff.”

IT IS, FURTHER, **RESOLVED** that the amendments, recited above, do not substantially alter the substance of the Ordinance and that Council may, following adoption of this amendatory Resolution, re-open the public hearing and thereafter act to adopt or reject the Ordinance, as amended.

**PUBLIC HEARING (CONTINUED)**: Mayor Nebel will open the meeting for a continued public hearing on Ordinance No. 621 – Regulations of Soil Disturbance

**ORDINANCE NO. 621 –REGULATIONS OF SOIL DISTURBANCE**  
**ORDINANCE NO. 621**

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES  
OF THE BOROUGH OF MANTOLOKING, 2007, AND PROVIDING FOR  
REGULATIONS OF SOIL DISTURBANCE**

BE IT ORDAINED BY THE MAYOR AND COUNCIL, AS FOLLOWS:

**a. Findings; purpose.**

This article is deemed essential and necessary to protect the public health, safety, and welfare of the citizens of Mantoloking Borough and the surrounding communities by accomplishing the following purposes:

1. Maintain the useful life of water bodies by preventing sedimentation.
2. Prevent dangers to life and property from excessive surface water runoff and clogging of drainage structures.
3. Prevent sedimentation and impairment to the public storm sewer system.
4. Preserve the recreational use of water bodies for swimming and fishing by preventing stagnation, sedimentation and degradation.
5. Prevent the importation of deleterious and/or contaminated soil into the Borough.
6. Ensure proper distribution of imported soil to prevent negative impacts onto adjoining properties and public right-of-way.
7. Reduce public expenditures for repair of public facilities resulting from soil erosion and sedimentation.
8. Conserve the taxable value of property by enhancing the environmental character of the Borough.

**b. Definitions.**

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

**APPLICANT**

The owner or contract purchaser or an authorized agent of land of same upon which earthwork activities, including either the moving, import, and/or export of soil are to be performed.

**CLEAN FILL**

Clean fill, also identified as clean soil, shall be constructed of soil, sand, or rock materials or a combination of these materials free from stumps, roots, weeds, sod, rubbish, garbage, and any other material that may decay. Clean fill and clean soil shall also be free of any chemical or physical contamination in accordance with NJDEP guidelines.

**EXCAVATOR**

Any person or company engaged in the moving, export, import, or excavation of soil or topsoil from, in or upon any land in the Borough.

**EXPORT**

The exportation of soil or removing of soil from premises or site to any location off the premises.

**IMPORT**

The importation of soil or bringing soil to any premises from any location off-site or off the premises.

**MOVE**

To dig, excavate, import, export, place, fill, grade, regrade, level or otherwise alter or change the location or contour earthen material, clean soil, or clean fill.

**PERMIT**

A Soil Disturbance Permit issued under the terms of this chapter.

**PREMISES**

One or more contiguous parcels of land in single ownership. Parcels shall not be deemed to be contiguous if separated by a road or right-of-way.

**SOIL**

Any earth, sand, clay, loam, gravel, humus, rock or dirt, and mixtures of any said earthen materials. Soil shall not be chemically or physically contaminated.

**SOIL DISTURBANCE**

Any activity involving the clearing, grading, moving, transporting, or excavation of land or soil, including the export or import of earthen material.

**TOPSOIL**

Soil that, in its natural state, constitutes the top layer of earth and is composed of 2.75% or more, by weight, of organic matter, and has the ability to readily support vegetation. Topsoil shall not contain stones, lumps, roots, or similar objects larger than ½ inch in any dimension and shall have not less than a 5.8 pH value. Topsoil shall not be chemically or physically contaminated soils.

**c. Application requirements.**

Prior to excavation, disturbance, land grading, earthwork, importation, and/or exportation of any soil on any premises in the Borough, an application shall be made by the owner or contract purchaser or authorized agent to the office of the Borough Engineer for a Soil Disturbance Permit. All properties to be filled in the Borough shall be filled with clean fill or topsoil as defined in this chapter. In addition to the Soil Disturbance Permit from the Borough, a Soil Erosion and Sediment Control Certification may be required from the Ocean County Soil Conservation District. The application for a Soil Disturbance Permit shall be submitted to the Borough as follows:

1. If the soil disturbance is necessary for the development of a project which has been granted an approval from the Planning/Zoning Board, an application shall be made to the Borough Engineer.
2. If the soil disturbance is necessary for the development of a project which has not been granted an approval from the Planning/Zoning Board, an application shall be made to the Borough Engineer.
3. The requirements of this chapter shall not apply when one of the following occurs or is proposed for the development of a project:

- (a). When the removal and exportation of soil is required as a result of excavation for the development of one (1) single-family dwelling crawlspace, basement, or accessory structures and site improvements, including in-ground swimming pools, patios, and driveways; or
- (b). When the procurement of a Surface Water Management Plan approval from the Borough Engineer is required for the development of a project in accordance with section 30-4.3 of the Mantoloking Code; or
- (c). When the total volume of topsoil and/or clean fill to be exported or imported is less than ten (10) cubic yards and a Surface Water Management Plan approval is not required. However, all earthen material to be imported shall be clean fill, as defined in this chapter, for any volume, quantity, or amount of earthen material imported to any property within the Borough of Mantoloking, and all soil disturbance activities shall not negatively impact adjacent properties or public rights-of-way, including the redirection of stormwater surface runoff.

**d. Information required for application.**

- 1. The application for a Soil Disturbance Permit shall be filed with the Borough Engineer and shall include the following documentation:
  - (a) Owner, applicant, and contractor names, street addresses, email addresses, and telephone numbers.
  - (b) The name, street address, email address, and telephone number of the excavator, if different than the contractor.
  - (c) The location of the subject property, including block/lot and street address, for which the soil disturbance activities are to occur.
  - (d) Name of project, if applicable.
  - (e) Written narrative and scope of work for proposed development, including the type of soil disturbance proposed, location of work on the subject property, and consideration for not impacting existing improvements (underground and above ground utilities, fencing, landscaping, hardscaping, driveways, foundations, bulkheads, storm sewer, roadways, etc.) on and off the subject property.
  - (f) Earthwork calculations for total volume of cut/fill for export or import of clean fill and/or clean topsoil for the subject application.
  - (g) Application fee, as identified in this chapter.
  - (h) Certification of clean fill and/or topsoil for all importation of earthen material, including all necessary analytical data for laboratory testing results from a legally certified testing laboratory supporting the material complies with the NJDEP standards for the USEPA target compound list/target analyte list (TCL/TAL) or signed certification(s) from the source of the material to be imported that the material is clean, free of contaminants or from a virgin source.
  - (i) Project schedule, including start of soil disturbance activities, duration of activities, and anticipated completion date.

**e. Application and inspection fees.**

- 1. Application fee.
  - (a) Each application shall be accompanied by an application fee in the amount indicated on the latest revised and/or amended application form for a Soil Disturbance Permit, which shall be used to cover the cost of examining the application, support documentation, clean fill certification documentation, and other processing thereof. In the event an application for a Soil Disturbance Permit is denied, no refund of the application fee shall be permitted.
- 2. Inspection fee.

- (a) In the event an inspection is required by the Borough Engineer to verify compliance with a Soil Disturbance Permit for a complex application, critical stage of development, or for a substantial volume of disturbance, the applicant shall be requested as a condition of approval to post an escrow deposit with the Borough of Mantoloking.
- (b) The amount of the required estimated escrow deposit will be provided by the Borough Engineer in the applicable approval condition for a Soil Disturbance Permit to cover the cost of the inspection and enforcement of the provisions of this chapter, and/or, the conditions of approval.
- (c) The escrow account shall be replenished by the applicant to cover the cost of all necessary inspections, which may be a result of subsequent or follow-up inspections by the Borough Engineer.
- (d) The applicant shall not begin development, work, and/or soil disturbance approved under a Soil Disturbance Permit until the necessary escrow deposited has been accepted by the Borough.
- (e) The Borough Engineer may waive the requirement for an inspection fee based on the type and/or complexity of the subject application's scope of work.

**f. Regulations.**

- 1. All other outside agency approvals and/or municipal approvals and permits shall be required and procured, if necessary. No work shall begin on any project until all necessary permits and approvals have been procured and, if necessary, all related conditions of approvals successfully completed and addressed.
- 2. All imported material shall be documented to be from the source of approval. The applicant must provide clear, written, and legible documentation confirming the imported material is from the approved source for clean fill.
- 3. All soil disturbance activities shall be completed without producing negative impacts on adjoining private properties, adjoining public property, or adjoining public rights-of-way.
- 4. All earthwork activities shall be completed to ensure the pre-construction drainage patterns or the approved revised drainage patterns are maintained or accomplished, and drainage patterns for surface and subsurface runoff of stormwater shall not be created by any soil disturbance activities which create a nuisance, health and safety problem, or any other negative or detrimental conditions on adjacent or adjoining lands.
- 5. All imported material shall be clean fill, as defined in this chapter, and shall be free of any chemical or physical contamination.
- 6. No staging or stockpiling of clean fill shall be permitted within public rights-of-way or off-site.
- 7. If an inspection is required by the Borough Engineer, a minimum forty-eight (48) hour formal written notice shall be provided to the Borough Engineer. Failure of proper notification may result in the rescindment of approval; revocation of permit; an issuance of requirements for corrective work or action; or denial and rejection of completed earthwork and soil disturbance activities.
- 8. All transporting and hauling of earthen material to the subject premises shall not create damage to the public roadways and rights-of-way, including the deposition of material along the public roads or within the public rights-of-way and sedimentation of public storm sewer systems. Any and all damage from the operations of hauling material to or from the subject premises shall be repaired by the applicant at no expense to the Borough. All material deposited within the public rights-of-way, roads, or storm sewers as a result of the transporting and hauling of material to or from the subject premises shall be cleaned and properly removed by the applicant at no expense to the Borough.
- 9. The hours of operation and acceptable noise levels for all approved soil disturbance activities shall comply with all other applicable chapters of this Code.
- 10. The applicant shall not create dust as a result of any approved soil disturbance activities, and the applicant shall not deposit any earthen material into any waterway.
- 11. Prior to any approved soil disturbance, an underground utility mark-out call shall be completed by the applicant, in accordance with State law, for the protection of all potential subsurface utilities within or adjacent to the limits of work.

12. The detailed specifications and standards for any Soil Disturbance Permit shall be dictated by the specific characteristics of the subject premise, adjoining sites, and application's scope of work. All standards for soil disturbance and soil stabilization shall be in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey, as promulgated by the State Soil Conservation Committee. During the review process for a permit application, the Borough Engineer may request additional specifications and/or other documentation to support the proposed development and soil disturbance activities, if the Borough Engineer is not satisfied with the original submitted application documents, and the additional requested documentation is required for approval of the subject Soil Disturbance Permit application.

**g. Enforcement.**

1. The Borough Engineer shall enforce the provisions of this chapter, including, but not limited to, those violations arising out the failure of any person or entity to apply for and obtain a Soil Disturbance Permit. The Borough Engineer shall complete the necessary inspections in accordance with this chapter or conditions of permit approval, and whenever directed by the Borough, for active Soil Disturbance Permits to ensure proper completion and implementation of the terms and conditions of the issued Soil Disturbance Permit. The Borough Engineer shall report all violations and take any action deemed necessary for proper enforcement to address emergency conditions, public health and safety concerns, and/or negative impacts to adjoining properties and rights-of-way.

**h. Revocation of permit; violations and penalties.**

1. After notice and an opportunity to be heard before the Borough Engineer, the Soil Disturbance Permit of any person may be revoked or suspended for such period as the Borough Engineer may determine for any violation of terms hereof or the terms and conditions of any permit granted hereunder. In addition to action on the revocation provided for herein, any person who violates this chapter or any director or officer of a corporation who participates in a violation of this chapter shall, upon conviction thereof, be subject to a maximum fine of \$2,000, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.

This Ordinance shall take effect upon final adoption

**RESOLUTION: INTRODUCTION OF ORDINANCE NO. 624 –AMENDING LAND USE REGULATIONS (APPENDIX B, BULK STANDARDS)**

*RESOLVED*, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey hereby adopts on first reading (title only) the following Ordinance:

**ORDINANCE NO. 624**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY,  
NEW JERSEY, AMENDING CHAPTER XXX OF THE REVISED  
GENERAL ORDINANCES LAND USE REGULATIONS**

*and be it*

*FURTHER RESOLVED*, that copies of all Ordinances introduced and all Resolutions adopted shall be maintained on file for public examination at the office of the Borough Clerk, published on the Borough's Website, [www.mantoloking.org](http://www.mantoloking.org), and provided to anyone free of charge during regular business hours, M-F 8:30am –4:30pm, and be it

*FURTHER RESOLVED*, the Borough Clerk advertises and takes all other steps required by law to conduct a public hearing on the proposed ordinance at the next regular business meeting of the Mayor and Council following introduction, absent Council's direction to the contrary upon introduction.

**RESOLUTION: INTRODUCTION OF ORDINANCE NO. 625 –AMENDING FLOOD DAMAGE PREVENTION (ORDINANCE NO. 618)**

*RESOLVED*, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey hereby adopts on first reading (title only) the following Ordinance:

**ORDINANCE NO. 625**

**ORDINANCE OF THE MAYOR AND COUNCIL OF THE  
BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY,  
PROVIDING FOR AMENDMENT OF ORDINANCE 525, FLOOD DAMAGE PREVENTION,  
AND REVISIONS OF CHAPTER XXIII OF THE REVISED GENERAL ORDINANCES  
OF THE BOROUGH OF MANTOLOKING, 2007 (THE CODE)**

*and be it*

*FURTHER RESOLVED*, that copies of all Ordinances introduced and all Resolutions adopted shall be maintained on file for public examination at the office of the Borough Clerk, published on the Borough's Website, [www.mantoloking.org](http://www.mantoloking.org), and provided to anyone free of charge during regular business hours, M-F 8:30am –4:30pm, and be it

*FURTHER RESOLVED*, the Borough Clerk advertises and takes all other steps required by law to conduct a public hearing on the proposed ordinance at the next regular business meeting of the Mayor and Council following introduction, absent Council's direction to the contrary upon introduction.

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

- A. Report of the Dune & Beach Renourishment Committee and Ocean County Block Grant Program
- B. Action Items: None

**MUNICIPAL SERVICES COMMITTEE, COUNCILMAN JAMES J. BROWN**

- A. Councilman Brown will present the reports of the Municipal Services Committee.
- B. Action Items: None

**MANTOLOKING COMMITTEE, COUNCILMAN DONALD NESS**

- A. Councilman Ness will present the reports of the Mantoloking Committee and the Environmental Commission.
- B. Action Items:

Councilman Ness will move the following \_\_\_\_\_ resolutions:

**RESOLUTION: APPOINTMENT OF OFFICIALS**

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

<b>Name</b>	<b>Position</b>	<b>Effective Date</b>
John G. Wesson	Environmental Commission	06/25/2013

**RESOLUTION: PROVIDING FOR CONTRACT MODIFICATION OF SOLID WASTE DISPOSAL CONTRACT BETWEEN THE BOROUGH OF MANTOLOKING AND REPUBLIC SERVICES OF NEW JERSEY, LLC, d/b/a MARPAL**

WHEREAS, the performance of the Solid Waste Disposal Contract has been significantly curtailed following Superstorm Sandy; and

WHEREAS, it is the desire of the parties to memorialize agreed negotiations in accordance with the terms and conditions set forth in the attached letter dated June 17, 2013, from Marpal Disposal.

IT IS NOW, THEREFORE, this 25<sup>TH</sup> day of June, 2013, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. That the terms and conditions set forth in the above referenced letter shall constitute final resolution of performance issues, post-storm; and
2. The Mayor and Clerk are hereby authorized to execute a formal Contract amendment consistent with the above referenced letter.

**8. MAYOR AND COUNCIL COMMENTS**

**9. PUBLIC COMMENTS PERIOD**

**10. EXECUTIVE SESSION**

**RESOLUTION: ADJOURN TO CLOSED SESSION IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT**

*WHEREAS, the Open Public Meetings Act, N.J.S.A.10: 4-11, permits municipal governing bodies to meet in closed session to discuss certain matters, now, therefore be it*

*RESOLVED, the Mayor and Council adjourns to closed session to discuss: (select one or more)*

- a matter rendered confidential by federal or state law*
- a matter in which release of information would impair the right to receive government funds*
- material the disclosure of which constitutes an unwarranted invasion of individual privacy*
- a collective bargaining agreement and/or negotiations related to it*
- a matter involving the purchase, lease, or acquisition of real property with public funds*
- protection of public safety and property and/or investigations of possible violations or violations of law*
- pending or anticipated litigation or contract negotiation and/or matters of attorney-client privilege*
- specific prospective or current employees unless all who could be adversely affected request an open session*
- deliberation after a public hearing that could result in a civil penalty or other loss, and be it*

*FURTHER RESOLVED, the minutes of this closed session be made public when the need for confidentiality no longer exists.*

**11. OPEN SESSION AS NECESSARY**

**12. NEXT MEETING –**

**RESOLUTION: APPROVE THE CHANGE OF REGULAR MEETING DATES FOR THE MAYOR AND COUNCIL**

**Regular Council Meeting**, Tuesday, July 16, 2013 at 4:30 p.m. at the Mantoloking Yacht Club, 1224 Bay Ave., Mantoloking, NJ

**Regular Council Meeting**, Tuesday, August 20, 2013 at 4:30 p.m. at the Mantoloking Yacht Club, 1224 Bay Ave., Mantoloking, NJ

**Regular Council Meeting**, Tuesday, September 17, 2013 at 4:30 p.m. at the Mantoloking Yacht Club, 1224 Bay Ave., Mantoloking, NJ

**13. ADJOURNMENT**

## ORDINANCE NO. 625

### ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, PROVIDING FOR AMENDMENT OF ORDINANCE 525, FLOOD DAMAGE PREVENTION, AND REVISIONS OF CHAPTER XXIII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING, 2007 (THE CODE)

BE IT ORDAINED that Ordinance No. 525 is hereby amended as follows:

See partial text of Ordinance 525, which has been marked to show **deletions** and **additions** to the following Articles: 23.2.2., 23-3, 23.3.3. 23.5.2, 23.5.3 and 23-6.

#### 23-2.2 Definitions

**Area of Special Flood Hazard** shall mean the land in the flood plain within a community subject to a one (1%) percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

**Base Flood Elevation (BFE)** – The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. For zones VE and V1-30 the elevation represents the stillwater elevation (SWEL) plus wave effect (BFE = SWEL + wave effect) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Best Available Flood Hazard Data** — The most recent available flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM.

**Best Available Flood Hazard Data Elevation**— The most recent available flood elevation FEMA has provided. The Best Available Flood Hazard Data Elevation may be depicted on an Advisory Flood Hazard Area Map; Work Map; or Preliminary FIS and FIRM

**Existing Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Floodproofing** — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Preliminary Flood Insurance Rate Map (FIRM)** — The draft version of the FIRM released for public comment before finalization and adoption.

**Sand Dunes** — Naturally occurring or man-made accumulations of sand in ridges or mounds landward of the beach.

**Substantial Improvement** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

**Violation** — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

### **23-3 GENERAL PROVISIONS.**

#### **23-3.2 Basis for Establishing the Areas of Special Flood Hazard.**

The areas of special flood hazard for the Borough of Mantoloking, Community No. 340383, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a. A scientific and engineering report "Flood Insurance Study, Ocean County, New Jersey (All Jurisdictions)" dated September 29, 2006;

b. Flood Insurance Rate Map for Ocean County, New Jersey (All Jurisdictions), as shown on Index and panel numbers 0216, 0218; whose effective date is September 29, 2006.

~~e. — Advisory Base Flood Elevations and Advisory Flood Hazard Maps titled Point Pleasant SE dated December 12, 2012, with the exception of the Coastal A recommendation. These documents shall take precedence over previous panels and FIS in construction and development regulations only. Where the Special Flood Hazard Area (SFHA) and the Advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.~~

c. Best Available Flood Hazard Data. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the effective mapping or Base Flood Elevation conflict or overlap with the Best Available Flood Hazard Data, whichever imposes the more stringent requirement shall prevail

### **23-3.3 Penalties for Noncompliance.**

No structure or land shall hereafter be constructed, re-located to, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of requirements shall, upon conviction, be fined not more than five hundred (\$500.00) dollars or imprisoned for not more than ninety (90) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Mantoloking from taking such other lawful action as is necessary to prevent or remedy any violation.

### **23-5.2 Specific Standards.**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in subsection 23-3.2, Basis for Establishing the Areas of Special Flood Hazard, or in subsection 23-4.3 b., Use of Other Base Flood and Floodway Data, the following standards are required:

- a. *Residential Construction.* New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement, together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation (published FIS/FIRM) or the best available flood hazard data elevation ~~or advisory base flood elevation~~ whichever is more restrictive, plus a Freeboard height as provided in Chapter XXX – Land Use Regulations.
- b. *Nonresidential Construction.* In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential

structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities: either

1. Elevated to or above the base flood elevation (published FIS/FIRM) or the best flood hazard data elevation ~~or advisory base flood elevation~~, whichever is more restrictive, plus a Freeboard height as provided in Chapter XXX – Land Use Regulations;
  2. Be floodproofed so that below the base flood level plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, or the best available flood hazard data elevation ~~or advisory base flood elevation~~ plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, (whichever is more restrictive) the structure is watertight with walls substantially impermeable to the passage of water;
- c. *Manufactured Homes.*
2. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation (published FIS/FIRM) or the best available flood hazard data elevation ~~or advisory base flood elevation~~, plus a Freeboard height as provided in Chapter XXX – Land Use Regulations (whichever is more restrictive).
- d. In an AO zone on the municipality's FIRM or DFIRM that all new construction and substantial improvement of any residential, or commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade plus a Freeboard height as provided in Chapter XXX – Land Use Regulations above the depth number specified in feet (~~at least three feet if no depth number is specified~~) or at or above the best available flood hazard data elevation ~~or at or above the advisory base flood elevation~~ plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;
- e. In an AO zone on the best available flood hazard data, all new construction and substantial improvement of any residential, or commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade plus a Freeboard height as provided in Chapter XXX – Land Use Regulations above the depth number specified in feet or at or above the FIRM/DFIRM Base Flood Elevation plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

- ef. Any residential, or commercial, industrial or other nonresidential structure shall require a Freeboard height as provided in Chapter XXX – Land Use Regulations. In A Zones, freeboard is measured from the top of the lowest floor. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) must be elevated or waterproofed to the base flood elevation or best available flood hazard data elevation plus freeboard.;

### **23-5.3 Coastal High Hazard Area.**

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in subsection 23-3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

a. *Location of Structures.*

1. All buildings or structures shall be located landward of the reach of the mean high tide.
2. The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or ~~manufactured home~~ subdivision.

b. *Construction Methods.*

Elevation.

- a. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation (published FIS/FIRM), the best available flood hazard data elevation ~~advisory base flood elevation~~ or as required by the Uniform Construction Code (NJAC 5:23), whichever is more restrictive plus a Freeboard height as provided in Chapter XXX – Land Use Regulations and with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in subsection 23-5.3 b.,4.;
- b. Any residential, or commercial, industrial or other nonresidential structure shall require a Freeboard height as provided in Chapter XXX – Land Use Regulations. In V Zones, it is measured from the bottom of the lowest horizontal structural member. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) must be elevated or waterproofed to the base flood elevation or best available flood hazard data elevation plus freeboard.;

### **23-6 VALIDITY.**

#### **23-6.1 Validity.**

~~If any section, paragraph, subdivision, clause or provision of this chapter is adjudged invalid, the adjudication shall apply only to the section, paragraph, subdivision, clause or~~

~~provision so adjudged and the remainder of this chapter shall be deemed valid and effective.~~

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this

### **NOTICE**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a special meeting of the Mayor and Council of the Borough of Mantoloking, in the County of Ocean and State of New Jersey held on the 25th day of June, 2013, and said Ordinance will be considered for final passage at the Mantoloking Yacht Club, 1224 Bay Avenue, Mantoloking, New Jersey, at 4:30 p.m. on the 16th day of July, 2013, 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.