

**Chapter 17**  
**STREETS AND SIDEWALKS**

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**§ 17-1. Excavation of streets.**

**§ 17-1.1 Purpose. [Ord. No. 281 A1]**

The purpose of this section is to provide a procedure for the maintenance of the public premises described below at the lowest cost to the Borough and with the least possible inconvenience to the public.

**§ 17-1.2 Permit Required; Conditions To Be Fulfilled. [Ord. No. 281 AA AI]**

No person, firm or corporation shall excavate or open or dig in or upon or otherwise disturb the surface, soil or materials of any public street, easement, rights-of-way or other public place for the purpose of making connections to any water pipe, sewer pipe, gas pipe or other utility installation to replace any sidewalks or curbs, or for any other purpose whatsoever, unless a permit so to do shall have first been obtained from the Borough Engineer. A permit shall be issued to the applicant after he has complied with the following:

- a. Execution and delivery of a complete written application to the Borough Engineer on a form to be furnished for that purpose which shall specify the name and address of applicant; the name and address of the contractor; the specific location of the proposed excavation; the width, length and depth thereof; the type of road or other surface; and the owner of the property for whose benefit the excavation is to be made. The application shall be accompanied by a sketch or plans, and specifications which indicate the location and details of the work. The application shall also be accompanied by a non-refundable fee for the issuance of the permit as hereinafter provided in Subsection **17-1.9**.
- b. Satisfactory compliance with the requirements of Subsection **17-1.8** pertaining to posting of cash and approved surety bond to guarantee that the opening or trench made by the

applicant will be properly closed in the street, right-of-way, easement or other public land, and that the same will be constructed to specifications promulgated by the Borough.

- c. No opening and excavation of any public streets, easements, and rights-of-way will be allowed to begin, nor will construction of any project be allowed to continue, during the period between July 4th and Labor Day except as may be deemed an emergency as hereinafter provided in Subsection **17-1.4**.
- d. No permits for major road openings, as herein defined, shall be granted for the benefit of any utility provider to cut, alter, change or disturb said newly constructed paved surfaces and within the same lineal boundary for a period of five years from the completion of the project, after due notice from the Borough to avail itself of the opportunity to coordinate its utility work by other utility or by the same utility provider. The prohibition against major street openings sooner than five (5) years, as noted above, may be relaxed upon application to the Governing Body, which may, for good cause shown in the interest of the public health, safety and welfare, be granted by resolution, and upon such conditions as shall be consistent with the purposes of this section.

A major opening shall be that required for the installation, replacement or repair of any utility facility or portion thereof which involves opening of a trench or cut in the pavement longer than a total of seventy-five (75) feet to achieve the installation replacement or repair.

### **§ 17-1.3 Obligations of Permittee. [Ord. No. 281 AA AII]**

Once the applicant is issued a permit, it shall be the obligation of the permittee to:

- a. Prior to any excavation, erect and maintain such signs, lights, barricades and other protective devices in accordance with details of the most current editions of the New Jersey Department of Transportation (NJDOT) Standard Specifications and the Manual of Uniform Traffic Control Devices (MUTCD) as may be necessary for the public safety and as may be required by the Borough Police Department or the Borough Engineer. In the event that the permittee shall fail to provide the protective devices to the satisfaction of the Borough, the Borough may, upon twelve (12) hours notice to the permittee, erect and maintain the necessary devices and charge the permittee for the cost thereof. In the event that any failure to act by the permittee may have an immediate adverse effect on the public safety, the Borough may erect the necessary protective devices without prior notice to the permittee and the permittee shall be responsible for the reasonable cost thereof;
- b. Avoid unnecessary interference with the public use of the right of way in question;

- c. Prosecute the work to completion within the date fixed by the permit. In the event the work is not completed on or before such date, the Borough may, upon the advice of the Borough Engineer or on its own initiative, complete the work; all costs thereof shall, in such event, be borne by the permittee. The permittee is to make all efforts to keep the opening or trench open for a minimum period of time to accomplish the purpose of the permittee and close such opening or trench just as soon as possible thereafter. All trenches shall be backfilled, compacted and at least temporarily paved, as of the termination of each day's work, without exceptions;
- d. Take affirmative action to protect children and other members of the public from any hazardous equipment while on the site of permittee's activity;
- e. Maintain all streets and other property affected by the project on a continuing basis in a clean condition; free from all rubbish, dust, excess earth, rubble and other debris. The permittee shall also be liable for any damage to the Borough roads caused by the operator of equipment over said roads. In the event the permittee fails to act as provided herein, the Borough may, upon twelve (12) hours notice to the permittee, clean and remove all rubbish, dust, excess earth, rocks, debris and unused material and/or repair any roads in the Borough damaged by the operation of equipment by the permittee over said roads, and charge the permittee the cost thereof. In the event that any failure by the permittee may have an immediate adverse effect upon the public safety, the Borough may clean, repair or protect the area in question prior to notice to the permittee and the permittee shall be responsible for the costs thereof;
- f. Perform all work so as to accommodate, to the greatest extent possible, a normal flow of traffic. All streets shall remain open to traffic during construction unless specific permission for closing and detour is contained in the permit. All applications to close a road and to detour<sup>[1]</sup> shall be forwarded to the Police Department and to the Borough Engineer for their review. Permission to close a street or utilize a detour shall not be granted unless it is necessary to reasonably complete the work and will not substantially or unnecessarily impair the public safety and convenience. If permission to detour is granted, such fact shall be communicated in writing to the Fire Department and local First Aid Squads at least twelve (12) hours prior to closing. No road which had been closed shall be reopened without prior approval of Borough Engineer and the Police Department;
- g. Assume full liability, defend, indemnify, and hold harmless the Borough, its officers, appointed officials, consultants, servants, and employees from and against any and all cost, loss, injury, or damage resulting from any negligence or fault of the permittee, his agents,

employees, contractors and consultants in connection with the activities covered by the permit. The Borough shall require that the applicant furnish appropriate liability insurance covering this undertaking at the expense of the permittee, to defend, indemnify and hold harmless the Borough and the persons listed above, in a sum not less than one million (\$1,000,000.00) dollars for each claim arising directly or indirectly out of permittee's activity. Permittee shall also furnish excess liability insurance for this undertaking to defend, indemnify and hold harmless in such sum as permittee may usually carry but, in the case of utility providers, not less than five million (\$5,000,000.00) dollars for personal injury and one and one-half million (\$1,500,000.00) dollars for property damage.

Permittee's contractor or subcontractor, when work is not performed by permittee's personnel, shall, as a minimum furnish comprehensive general public liability insurance for all risks entailed in the project of not less than one million (\$1,000,000.00) dollars per claimant for personal injury and not less than five hundred thousand (\$500,000.00) dollars for property damage, per occurrence.

The permittee's obligations herein to defend, indemnify and hold harmless shall not be conditioned upon the availability or viability of any insurance coverage, but shall be absolute, unconditional and unlimited.

All persons providing labor on the site of the permitted activity shall furnish proof of workers compensation coverage prior to commencement of work. All insurance required to be furnished shall be evidenced by issuance of a Certificate or Certificates of Insurance in companies acceptable to the Borough and shall, as to liability coverage, specifically refer to the obligations assumed by the permittee in reference to the project which is the subject of the application.

A "memorandum" copy of the complete policies and all endorsements shall be furnished to the Borough. The Borough, upon its request, shall be named as "an additional insured as its interest may appear." No Certificate will be accepted unless it provides for at least thirty (30) days prior written notice by certified mail, return receipt requested, to the Borough before the effective date of cancellation for any reason, or of expiration of the policy;

- h. Assume responsibility for notifying all utility companies or other jurisdictional authorities which may have underground facilities in the project area and which may be affected by the proposed work, and shall further be fully responsible to secure mark-outs of the underground facilities, all in advance of any construction;

- i. Assume responsibility for securing all other necessary permits from regulatory agencies including, but not limited to, Soil Erosion Permit from Soil Conservation Service, Dewatering Permit from the New Jersey Department of Environmental Protection, etc. The Borough shall have no liability for applicant's failure to obtain other permits or to comply with the provisions of any other regulatory authority of any nature whatsoever. Any interruption of the project by order of the Borough or any other authority shall not extend the time for completion as set forth in the permit;
- j. Pavement markings shall be placed, as directed by the Borough Engineer, on the finished pavement prior to opening the roadway to traffic. Traffic paint shall conform to the applicable requirements of Subsections 912.34 and 912.35 of the NJDOT Standard Specifications. Pavement markings shall be maintained during the construction period;
- k. The permittee shall insure that the noise generated by the construction operation is controlled and equipment shall be equipped with properly maintained mufflers, pneumatic exhaust silencers, and the like. Construction equipment shall not be operated during those hours prohibited by Borough regulations 6:00 p.m. to 8:00 a.m. weekdays and from Saturday 6:00 p.m. to 8:00 a.m. Monday morning and on legal holidays. (§12-4.2(5) Peace and Good Order). However, properly silenced pumps may, with the approval of the Borough Engineer, be operated as necessary;
- l. The permittee shall insure that dust control is maintained during construction. Work shall be performed to minimize the creation and dispersion of dust. Water shall be used to control dust. The use of chemicals for dust control is prohibited;
- m. Permittee shall be responsible for the removal, storage and replacement, as necessary, to facilitate his work and to the satisfaction of the Borough Engineer, of mailboxes, street and road signs, street lights, traffic control devices, etc. If street and road signs are to be removed even for a short time, the State Police, local Police, and/or appropriate public authority having jurisdiction shall be notified in advance;
- n. The permittee shall assume responsibility that all temporary construction facilities and structures are removed when the work is complete. Any remaining waste or surplus material shall be removed and the project site and adjacent properties affected by the work shall be left in a neat and satisfactory condition. All silt or other foreign debris that may have been deposited in channels, storm drains or other points of water discharge shall be removed. All waste material collected as a result of the work shall become the property of the permittee to dispose of off site in accordance with the requirements of the NJDEP, Solid Waste Administration;

- o. The extent of excavation open at any one time will be controlled by the condition of the site, but in no event shall the opening exceed two hundred fifty (250) feet;
- p. Prior to construction, permittee shall conduct a subsurface soils investigation to determine the existing soil types, soil density, and groundwater levels. The extent of investigations and testing required will be dependent upon the type of project and as such, the permittee shall meet with and obtain the approval from the Borough Engineer of the subsurface investigation program, prior to submission of an application; and
- q. Routing of new or replacement utility lines shall be subject to review and approval of the Borough Engineer with due regard to the purposes of this section.

**§ 17-1.4 Emergency Openings. [Ord. No. 281 AIII]**

No person, firm, partnership, corporation or other entity shall direct or cause any employee, agent or contractor of such person, firm, partnership, corporation or entity to open or dig a trench in any public street, right-of-way or other public place until a written permit for such opening or trench has been issued by the Borough, except that openings may be made without the necessity of a previously issued permit in the case of emergencies which would immediately endanger the health, safety or property; subject, however, to the condition that prior notice thereof shall be given verbally to the Police Department and thereafter a written application in accordance with the provisions of this section is made within twelve (12) hours after such emergency opening is commenced. The person or entity acting under this emergency procedure shall, in all respects, be bound by all other requirements of this section. No opening shall be finally repaved without the written approval of the Borough Engineer.

**§ 17-1.5 Excavation and Backfilling. [Ord. No. 281 AA AIV]**

- a. No opening shall be commenced on a Saturday, Sunday or holiday except in case of emergency.
- b. The issuance of a permit under this section shall not in any way be deemed to constitute a waiver of any other lawful requirement in connection with public utility installation requirements. Any work permitted under this section shall be conducted in a manner so as not to interfere with public utilities or other authorized installations, public or private property.

- c. On a bituminous surface treated road the edges of the opening shall be cut straight through the bituminous surface before the trench is excavated.
- d. No excavation shall commence until such time that an adequate dewatering system is installed and operating satisfactorily, as required for underground utility work. An adequate dewatering system shall be defined as having lowered the groundwater to a point at least two (2) feet below the proposed pipeline invert.
- e. All excavations shall be completely backfilled with clean suitable material, and the material shall be compacted by mechanical tamping in layers or other acceptable means. All trenches shall be compacted to the satisfaction of the Borough Engineer. Whenever the Borough Engineer shall deem that the material removed is unsatisfactory for backfill, the permittee shall backfill the trench with sand or other proper and acceptable material from off-site sources, and shall compact the fill material as required by the Borough Engineer. Unsuitable material shall include, but not be limited to, organic matter, trees, stumps, frozen material, clays, rubble, refuse, cinders or rock. All excess materials shall be removed from the premises. Anything contained herein to the contrary notwithstanding, the top eight (8) inches of any such excavation below final bituminous paving shall be filled with compacted soil gradation I-5 in accordance with NJDOT specifications. If tamping alone is employed, the material shall be placed in layers, not exceeding twelve (12) inches in thickness, moistened, as directed, and each layer energetically tamped until thoroughly compacted. Compaction shall achieve ninety-five (95%) percent Proctor density in accordance with ASTM D-1557 test procedures.
- f. No trench shall be backfilled until all proper inspections of any connections shall have been made as required by any and all regulations concerning the inspection of sewer, water, gas, electrical or other utility installations. No backfilling shall be commenced without prior approval of the Borough Engineer. Permittee shall pay for such independent testing of compaction and paving as may be employed by the Borough Engineer to determine compliance with conditions of this section.

**§ 17-1.6 Restoration of Surface Paving and Surface Paving Foundation. [Ord. No. 281 AA AIV]**

- a. All surface paving and surface paving foundation shall be resurfaced and restored by the permittee in accordance with the standards set forth in this section. Compliance, for the

purpose of discharging surety or refund of cash bond, shall be as determined by the Borough Engineer and in accordance with the following applicable rules:

1. In the case of a gravel pavement, the permittee shall fill in the top eight (8) inches of the excavated trench or opening with compacted soil gradation I-5 as specified in the NJDOT standard specifications;
2. In the case of a bituminous surface, the permittee shall restore the surface with a minimum of six (6) inches of hot mixed bituminous concrete stabilized base course, NJDOT mix #I-2, covered with two (2) inches of hot mixed bituminous concrete surface course, NJDOT mix #I-5, each course to be as specified in the NJDOT Standard Specifications;
3. In the case of a concrete surface, the permittee shall reconstruct the subgrade with six (6) inches of soil gradation I-5, and shall restore the reinforcement and the concrete pavement with Class "B" concrete, as directed by the Borough Engineer.
4. In no event shall the pavement be restored to specifications of lesser quality or dimension than that pavement which was removed or damaged by permittee;
5. Bituminous concrete surface course, hot-mixed, shall conform to the requirements of the NJDOT Standard Specifications, Subsections 404.02 and 404.03 and shall be a crushed stone mix, designation #I-5. Tack coat shall be utilized and shall conform to NJDOT Standard Specifications, Subsection 404.02. Mix design shall be submitted to and approved by the Borough Engineer prior to commencement of the work.
6. Restoration of roadways, in general, shall consist of replacement of the roadway for the trench area plus twelve (12) inches on either side. Should, however, the proposed construction disturb more than one-third (1/3) of roadway width, and be in combination with service or lateral trenches, then the permittee shall be responsible to restore the trench area as described by this section, as well as provide a complete overlay of the existing roadway, from curb to curb or edge of roadway to edge of roadway.

The trench area shall receive the stabilized base course as described elsewhere in this section. The existing pavement in the area not disturbed by trench excavation shall be milled, removed, or as otherwise approved by the Borough Engineer, to provide for a minimum of one and one-half inches (1.5) of bituminous surface course from curb to curb or edge of roadway to edge of roadway. The grades of the

proposed restoration shall be determined by the permittee and approved by the Borough Engineer prior to start of the work. In the event the proposed project will not involve excavation across the existing road for service laterals, but the main trench width exceeds one-half (1/2) of the existing roadway width (measured from curb to curb or edge of roadway to edge of roadway), then the entire roadway shall also be restored as described above.

- b. The Borough Engineer shall order such testing and observation of work in progress as is reasonably required to obtain compliance by the permittee with all provisions of this section, all at the expense of the permittee.
- c. In the event of default by the permittee in the restoration of the premises, the Borough may, on its own account, complete the work and charge the expenses thereof against the cash or surety bond posted in addition to any other legal remedy that may be available to it.
- d. The Borough reserves the right to remove and replace any defective patch work or surface treatment work made by the permittee and charge the cost of the labor and materials for such removal and replacement to the permittee.
- e. It is the obligation of the permittee to maintain the restoration of the premises for one (1) year after completion and acceptance by the Borough. The Borough may, in the discretion of the Borough Engineer, require a one (1) year maintenance bond from approved sureties.

#### **§ 17-1.7 Restoration of Concrete Curbs and Sidewalks. [Ord. No. 281 AA AIV]**

All concrete curbs and sidewalks shall be restored, if damaged during construction, or if being removed and replaced by the permittee, in accordance with the standards set forth in this section and those defined in Chapter XX, entitled "Land Use Regulations." Compliance for the purpose of discharging surety or refund of cash bond shall be as determined by the Borough Engineer.

#### **§ 17-1.8 Surety Bond. [Ord. No. 281 AA AV]**

- a. Each applicant for a permit for such opening or trench shall post cash or approved surety company bond or other satisfactory bond with the Borough Clerk to cover the estimated costs of excavating, backfilling, compaction, repaving, engineering, observation and

testing as required in accordance with the estimate of the Borough Engineer, in each instance. Not less than twenty (20%) percent of the required surety shall be by cash or certified check paid to the Borough. The balance of the estimate shall be posted by approved bond, as noted above.

- b. Each surety bond shall be executed by the permittee as principal. If a surety company bond is given, it shall be issued by a surety company licensed to do business in the State of New Jersey acceptable to the Borough and in form sufficient to guarantee the permittee's compliance with this section.
- c. Upon completion of the project by the permittee and the restoration of the public street in accordance with this section and payment of all costs incurred by Borough in accordance with this section, the permittee shall receive the return of his bond or cash deposit, as the case may be, upon proper application therefor to the Borough Clerk, and upon acceptance of the restoration of the public street opening or trench in a certification executed by the Borough Engineer. The Borough may, at its option, apply any or all of the cash portion of the Bond in satisfaction of its unreimbursed expenses. It is expected, however, that the permittee will pay Borough's expenses, as invoiced, in the ordinary course of business and not later than thirty (30) days after presentation.

**§ 17-1.9 Excavator Fees. [Ord. No. 281 AA AVI; Ord. No. 485]**

- a. Basic Fee. For every opening or excavation the basic permit fee shall be one hundred (\$100.00) dollars.
- b. Fee for Technical Review and Services. In addition to the basic fee of two hundred fifty (\$250.00) dollars, the applicant shall be obligated to pay the Borough's actual cost for technical review of the application. The Borough Clerk shall obtain an estimate of the review fee from the Borough Engineer and advise the applicant of the fee estimate. The application shall not be complete for review until all information in the nature of plans, specifications and survey and/or soil borings, if required, together with funds (cash or check acceptable to the Clerk) sufficient to pay the estimated review fee have been delivered to the Clerk. Upon completion of the technical review, the applicant shall receive a refund or credit for any unearned review fees. In the event that the actual cost of review exceeds the cost estimated, the applicant shall pay such documented increase, if any, before any permit will issue.
- c. The permittee shall, upon completion and before discharge of surety or refund of cash bond, pay all fees and disbursements of the Borough Engineer incurred in conjunction with

the work for which the permit was granted. Permittee shall receive credit for all sums paid on account at issuance of permit.

**§ 17-1.10 Compliance/Stop Order. [Ord. No. 281 AVII]**

If the work is not being performed in accordance with the provisions of this section or if the work is being performed in a manner which is hazardous to the safety and well-being of the public, then the Borough Engineer or the Police Department shall issue a stop work notice to the permittee or persons actually in charge of the work at the location thereof. Upon the issuance of a stop notice, the progress of the work shall cease until the defects are corrected and the stop order rescinded.

**§ 17-1.11 Road Openings for Individual Connections of Utilities.[Ord. No. 485]**

- a. Purpose. The purpose of this subsection is to provide a process for and to regulate openings and excavations and restoration of the public streets, easements, highway roads and rights-of-way in the Borough of Mantoloking for the purpose of installation, replacement or repair of utilities to and for the benefit of individual lots (one (1) or more), known as "minor" openings.
- b. Definition. As used in this subsection:

**MINOR OPENINGS**

Shall mean any excavation, cut or removal of pavement of less than seventy-five feet necessary to install, replace or maintain a service connection to one or more individual lots.

- c. Regulations.
  1. No person, firm or entity shall excavate, cut or remove any pavement, curb, sidewalk or like facility within the public right-of-way without first obtaining a municipal road opening permit for such work.
  2. The Borough Clerk shall provide, to any person interested, a Municipal Road Opening Permit application form. Upon receipt of a complete application and the required fee, of one hundred (\$100.00) dollars, the application shall be forwarded to the Borough Engineer for review. The form of application shall be as specified in Subsection b of this subsection; together with a competent written rationale, which sets forth the applicant's need for and justification of the proposed road opening.

In recognition of the desire of the Borough to minimize occasions of road openings which involve disturbance of paved roadway surfaces, the applicant must show a cogent and persuasive rationale which will persuasively support the need for roadway opening as opposed to alternative methods and means which would reasonably facilitate attainment of the applicant's legitimate purposes. Whenever, in the sole discretion of the Borough Engineer, with due regard to the condition of existing connections, and the demonstrated needs of the applicant, and the project may be reasonably prosecuted without undermining, cutting or excavating paved surfaces, said permit may be issued for work within the right-of-way shall specifically proscribe and prohibit any undermining, cutting or excavating of paved roadway surfaces.

3. The Municipal Road Opening Permit may, in the discretion of the Borough Engineer, be conditioned upon the posting of cash surety in a sum sufficient to cover the cost of roadway restoration. The surety shall be released upon preliminary inspection of the restored roadway by the Borough Engineer.
4. The permit shall be conditioned upon the permittee's undertaking, by accepting the permit, to guarantee to the Borough that the restoration will, in all respects, comply with performance specifications of this subsection as amended. The guarantee shall expire one (1) year following the restoration of the paved surface. In the event of the appearance of defective work within the one (1) year period the owner of the property shall, upon the written direction of the Borough Engineer, promptly take such action as shall be necessary to achieve compliance with the specified standards. In the event that the owner shall fail to, within one hundred twenty (120) days following notice, completely correct the deficient condition to the reasonable satisfaction of the Borough Engineer, the Borough may, at its cost, do so and in that event, all costs, direct and indirect, shall be charged against the lot or lots, as a municipal lien, subject to collection in the manner permitted by law. The failure of any owner to provide the corrective work and/or pay the reasonable cost of such corrective work, upon demand, shall be a violation of this section and the owner shall, upon conviction, be subject to the penalties set forth in Subsection 17-1.11.
5. In the event of circumstances of emergency and wherein the Borough Clerk and Borough Engineer are not available to process applications in the ordinary course of business, the Mayor, or in his or her absence, the President of Council, may issue an emergency road opening permit and such emergency permit shall be subject to all of the conditions of this section.

- d. This amendatory Subsection 17-1.20 is supplementary to and not in derogation of any of the provisions of Ordinance 281, codified as § 17-1, Subsections 17-1.1 through 17-1.11. All of the provisions of Ordinance 281, which are not eclipsed by or in clear conflict with this subsection shall remain in full force and effect. This subsection shall be construed, interpreted and enforced to the attainment of the goal that disturbance of paved roadways shall be minimized (avoided) whenever to do so is reasonably practicable. The requirements of the installation, replacement or repair of utility "main" lines is not impacted by this subsection, all of which remain subject to the provisions of Ordinance No. 281 (codified as Subsections 17-1.1 through 17-1.11) as initially adopted.

Final Version

**§ 17-2 Maintenance of sidewalks and curbs.**

**§ 17-2.1 Maintenance Required. [Ord. No. 121 §1]**

Any person owning any real property fronting on any street in the Borough shall at his or her charge and expense maintain the sidewalk and curb of the street in front of such house or lot in good repair.

**§ 17-2.2 Owner Fails to Repair; Notice; Borough to Cause Repairs. [Ord. No. 121 AAA 2-4]**

- a. Upon failure of any owner of a lot or lots to maintain the sidewalk and curb fronting thereon as provided in Subsection **17-2.1**, the Borough shall cause a notice to be served upon such owner, describing the lot or lots affected, the improvement or repairs required, and stating that it is the intention of the Borough to cause such improvement or repairs to be made within thirty (30) days after service of the notice in the event that the owner shall fail to do so, and that the entire expense of the improvement or of the repairs will be charged against the owner of the lot or lots and enforced as authorized by law.
- b. If after service of the notice as provided for in Subsection b above, the owner or lessee of the lot or lots affected thereby shall neglect or fail to make the improvement or repairs directed by such notice, the Public Works Supervisor shall cause such improvement and/or repairs to be made and shall certify the cost of work done on each lot to the Chief Financial Officer who shall impose, collect and enforce the expense of such sidewalk and curb improvements and repairs and assess the same against the several lots, as provided by law.

**§ 17-3 Clear view at intersections; obstructions on sidewalks.**

**§ 17-3.1 Removal of Obstructions on Sidewalks; Height of Brush and Trees at Intersections. [Ord. No. 196 §1]**

In order to provide for the free and unobstructed use of sidewalks and in order to prevent any visual obstructions to the streets of the Borough, the Public Works Supervisor or the Borough Council may serve written notice upon any owner or tenant of lands in the Borough, requiring that such owner or tenant shall within ten (10) days of such notice remove from or over the sidewalks abutting his property, impediments of any nature whatsoever and cut all brush, hedges and other plant life growing within ten (10) feet of any road and within twenty-five (25) feet of the intersection of two (2) roadways to a height of not more than two and one-half (2.5) feet where it shall be necessary and expedient for the preservation of the public safety as such notice may specify. It is the intention of this section that the sidewalks shall be clean and unobstructed full width and to an elevation not less than eight (8) feet over the sidewalks, and that the streets of the Borough shall be free from all visual obstructions caused by brush, hedges and other plant life growing within ten (10) feet of any street and within twenty-five (25) feet of the intersection of two (2) streets.

**§ 17-3.2 Service of Notice. [Ord. No. 196 § 2]**

The notice provided for in Subsection 17-3.1 may be served by personal service or by certified mail, return receipt requested, to the last known address of the owner or tenant of lands abutting the obstructed sidewalk or street.

**§ 17-3.3 Owner Fails to Comply; Action by Borough. [Ord. No. 196 AA 3]**

Whenever any owner or tenant of any lands in the Borough has been notified to remove, within ten (10) days, impediments of any nature whatsoever, as such notice may specify, and such removal has not been accomplished, the Borough may by action of the Borough Supervisor of Public Works or the Borough Council remove any such impediments from the sidewalk or lands abutting the street at the direction of the Borough Supervisor of Public Works who shall, pursuant to N.J.S.A. 40:48-2.14 certify the cost thereof to the governing body, which shall examine the certificate, and if found correct shall cause the cost as shown thereon to be charged against said dwelling or lands; the amount so charged shall forthwith become a lien upon such dwelling or lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

**§ 17-4 Rights-of-way. [ Added 12-17-2019 by Ord. No. 700]**

**§ 17-4.1 Rights-of-Way Purpose.**

Statement of purpose. The Borough finds and declares that it is necessary to set forth clear standards in relation to the siting of poles, cabinets, and antennas for the benefit of its citizens and any utilities which use the Borough's rights-of-way. The purpose of this chapter is to protect the property of the Borough and its citizens by creating a permit system for all new poles, antennas, and cabinets which are proposed to be placed in the municipal right-of-way.

**§ 17-4.2 Rights-of-Way Permits; Definitions.**

For purposes of this Section, the following definitions shall apply:

**ANTICIPATED MUNICIPAL EXPENSES**

The cost of processing an application for a right-of-way permit including, but not limited to, all professional fees such as engineering, planning or attorney fees such as are normally charged for approval escrows.

**CABINET**

A box-like or rectangular structure used to facilitate utility or wireless service from within the municipal right-of-way.

**ELECTRICAL DISTRIBUTION SYSTEM**

The part of the electrical system, after the transmission system, that is dedicated to delivering electric energy to an end user.

**EXISTING POLE**

A pole that is in lawful existence within the municipal right-of-way.

**GROUND LEVEL CABINETS**

A cabinet that is not attached to an existing pole and is touching the ground.

**MUNICIPAL RIGHT-OF-WAY**

The surface of, and the space above or below, any public street, road, place, public way or place, sidewalk, alley, boulevard, parkway, drive or the like, held by the Borough as an easement or in fee simple ownership. This term also includes rights-of-way held by the County of Ocean where the Borough's approval is required for the use of the same pursuant to N.J.S.A. 27:16-6.

**POLE**

A long, slender, rounded piece of wood, concrete, or metal.

**POLE-MOUNTED ANTENNA**

A device that is attached to a pole and used to transmit radio or microwave signals and shall include, but not be limited to, small cell equipment and transmission media such as femtocells, picocells, microcells and outside distributed antenna systems.

**POLE-MOUNTED CABINET**

A cabinet that is proposed to be placed on an existing or proposed pole.

**PROPOSED POLE**

A pole that is proposed to be placed in the municipal right-of-way.

**PUBLIC GROUNDS**

Any lands, areas, buildings or installations owned by the Borough of Mantoloking or any of its departments, agencies or commissions, and shall include municipal Board of Education lands, areas, buildings or installations.

**RIGHT-OF-WAY AGREEMENT**

An agreement that sets forth the terms and conditions for use of the municipal right-of-way and includes, but is not limited to, municipal franchise agreements.

**RIGHT-OF-WAY PERMIT**

An approval from the Borough, setting forth the applicant's compliance with the requirements of this chapter.

**SITING**

The placement of one new pole, one replacement pole, one antenna along with one cabinet on an existing pole, or a combination of the placement of one new or replacement pole and one antenna and cabinet.

**SURROUNDING STREETScape**

Existing poles within the same right-of-way which are located within 500 feet of the proposed pole.

**UNDERGROUND CABINETS**

A cabinet that is located beneath the surface of the ground.

**UTILITIES REGULATED BY THE BOARD OF PUBLIC UTILITIES**

Companies subject to regulation by the New Jersey Board of Public Utilities under Chapter 48 of the Revised Statutes of the State of New Jersey.

**UTILITY SERVICE**

Electric, telephone or cable service.

**§ 17-4.3 Application of This Chapter to Utilities Regulated By the Board of Public Utilities; Other Entities.**

Notwithstanding any franchise or right-of-way agreement to the contrary, all facilities proposed to be placed within the municipal right-of-way by a utility regulated by the Board of Public Utilities and all other entities lawfully regulating any facility, equipment, antenna, cabinet or other installation within the municipal right-of-way shall be subject to the standards and procedures set forth within this chapter and shall require right-of-way permits for the siting of poles, antennas, cabinets and related facilities, equipment or other installation within the municipal right-of-way.

**§ 17-4.4 Pole-Mounted Antennas, Access to Right-of-Way, Right-of-Way Agreements.**

- a. No person shall operate or place any type of pole-mounted antenna within the municipal right-of-way without first entering in to a right-of-way agreement pursuant to the provisions of this chapter.
- b. The terms of said right-of-way agreement shall include:
  1. A term not to exceed 10 years;
  2. Insurance requirements as set forth in this chapter of this Code pertaining to the excavation of streets;
  3. A fine for unauthorized installations;
  4. A reference to the siting standards set forth in this chapter;
  5. Requirements to remove and restore the area to its previous condition; and
  6. Any other items which may reasonably be required for the applicant's operation within the municipal right-of-way.

**§ 17-4.5 Rights-of-Way Permits; Siting Standards for Poles, Antennas and Cabinets in the Right-of-Way.**

- a. No pole, antenna or cabinet shall be installed in the municipal right-of-way without the issuance of a right-of-way permit for that installation.
- b. Pole siting standards.
  1. Height. No pole shall be taller than 35 feet above the grade at the base of the pole or 110% of the height of poles in the surrounding streetscape, whichever is higher.
  2. Distance from the curblines: No pole shall be farther than 18 inches from the curblines or roadway.
  3. Location, safety and aesthetics: No pole shall be erected in the municipal right-of-way unless it:
    - i. Is replacing an existing pole; or
    - ii. Is approved pursuant to a land development application by the Borough's Land Use Board pursuant to a land use application; or
    - iii. Is located on the opposite side of the street from a part of the electrical distribution system; and
    - iv. Is located in the municipal right-of-way; and
    - v. Is a minimum of 200 linear feet away from any other existing pole or proposed pole along the same side of the street; and
    - vi. Is not located in an area with underground utilities; and
    - vii. Does not inhibit any existing sight triangles; and

- viii. Allows adequate room for the public to pass and repass along and across the public right-of-way; and
      - ix. Is finished and/or painted so as to blend in compatibly with its surrounding streetscape and so as to minimize its visual impact on surrounding properties.
    4. Poles are prohibited in the municipal right-of-way located in any public grounds.
  - c. Ground level cabinet site standards. Ground level cabinets are prohibited in the municipal right-of-way.
  - d. Underground cabinet site standards.
    1. Underground cabinets are the preferred method of cabinet siting within the Borough of Mantoloking and permitted in the municipal right-of-way in all Zones.
    2. Underground cabinet siting shall not disturb any underground utilities.
    3. The Borough shall require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any underground cabinet.
  - e. Pole-mounted antenna and pole-mounted cabinet siting standards.
    1. Pole-mounted antennas are permitted on existing poles, provided that each pole-mounted antenna:
      - i. Does not exceed three cubic feet in volume; and
      - ii. Is finished or painted and otherwise camouflaged so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
      - iii. Does not inhibit any existing sight triangles; and
      - iv. Allows adequate room for the public to pass and repass along and across the public right-of-way.
    2. Pole-mounted cabinets are permitted on existing poles, provided that each pole-mounted antenna:
      - i. Does not exceed 16 cubic feet in volume; and
      - ii. Is finished or painted and otherwise camouflaged so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
      - iii. Does not inhibit any existing sight triangles; and
      - iv. Allows adequate room for the public to pass and repass along and across the public right-of-way.
    3. The Borough shall require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any pole-mounted antenna or pole-mounted cabinet.

- f. Pole-mounted antenna and underground cabinet siting standards.
  - 1. Pole-mounted antennas are permitted on existing poles, provided that each pole-mounted antenna:
    - i. Does not exceed three cubic feet in volume; and
    - ii. Is finished or painted and otherwise camouflaged so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
    - iii. Does not inhibit any existing sight triangles; and
    - iv. Allows adequate room for the public to pass and repass along and across the public right-of-way.
  - 2. Underground cabinets are permitted with existing poles, provided that each underground cabinet:
    - i. Shall not disturb any underground utilities.
  - 3. The Borough shall require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any pole-mounted antenna and underground cabinet.

#### **§ 17-4.6 Application Process.**

- a. Pre-application meeting. Prior to making a formal application with the Borough for use of the municipal right-of-way, all applicants are advised to meet with the Borough Engineer to review the scope of the applicant's proposal.
- b. The Borough Council shall, by resolution, approve or disapprove every right-of-way permit application based upon the recommendations provided to it pursuant to Subsections e and f below.
- c. All applications made under this section and chapter shall be expedited so as to comply with the shot clocks set forth in the Federal Communications Commission Order entitled "Accelerating Wireless Broadband Deployment By The Removal Of Barriers To Infrastructure Investment," WT Docket No. 17-79; WC Docket No. 17-84.
- d. Every application made under this section and chapter must include a stamped survey prepared by a New Jersey licensed land surveyor demonstrating that any proposed pole, cabinet or antenna is located within the municipal right-of-way. Any such application which does not include such survey shall immediately be deemed incomplete.
- e. New poles. The Mantoloking Land Use Board shall, pursuant to N.J.S.A. 40:55D-25b(3), review all applications for the placement of new poles and ground level cabinets proposed

to be located in the municipal right-of-way and advise the Borough Council of its recommendations to approve, deny or approve with conditions such applications. If the Planning Board recommends a denial of such application it shall set forth the factual basis for such denial in writing.

- f. Pole-mounted antennas and pole-mounted cabinets. The Borough Engineer shall review all applications to place pole-mounted antennas and pole-mounted cabinets within the municipal right-of-way and advise the Borough Council of his or her recommendation to approve, deny or approve with conditions such applications.
- g. Pole-mounted antennas and underground cabinets. The Borough Engineer shall review all applications to place pole-mounted antennas and underground cabinets within the municipal right-of-way and advise the Borough Council of his or her recommendation to approve, deny or approve with conditions such applications.
- h. If the Borough Council denies any application made under this section and chapter, it shall do so in writing and set forth the factual basis therefor.
- i. Waiver. The Borough Council may waive any siting standard set forth in this chapter where the applicant demonstrates that strict enforcement of any siting standard will:
  - 1. Prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. § 253(a); or
  - 2. Prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. § 332(c)(7)(B)(i)(II); or
  - 3. Will violate any requirement set forth in the Federal Communications Commission Order entitled "Accelerating Wireless Broadband Deployment By The Removal Of Barriers To Infrastructure Investment," WT Docket No. 17-79; WC Docket No. 17-84.

#### **§ 17-4.7 Right-of-Way Permit Fees and Deposit Toward Anticipated Municipal Expenses.**

- a. Every right-of-way permit application must include a right-of-way permit fee in the following amounts:
  - 1. One to five sites: \$500.
  - 2. Each additional site: \$100.
- b. Deposit toward anticipated municipal expenses.

1. In addition to the right-of-way permit application fee, the Borough Engineer shall require the posting of an escrow in the amount of \$2,000 toward anticipated municipal expenses including, but not limited to planner, engineer, legal or other municipal fees related to review of an application for a right-of-way permit under this chapter.
2. The applicant's deposit shall be deposited in an escrow account. If at any time such deposit contains insufficient funds to enable the Borough to conduct its review of the right-of-way permit application, the Borough Engineer shall provide the applicant with notice of an insufficient balance. The applicant shall deposit within 10 days of such notice such additional deposit as shall be agreed upon by the applicant and the Borough Engineer to complete the Borough's review.
3. After a final decision has been made by the Borough Council in accordance with this chapter regarding the applicant's right-of-way permit application, any unused balance from the applicant's deposit toward anticipated municipal expenses shall be refunded.

#### **§ 17-4.8 Miscellaneous Provisions.**

- a. Any approval granted pursuant to this chapter does not relieve the applicant from receiving consent of the owner of the land above which an applicant's facility may be located as required under New Jersey law.
- b. Applicant must, in addition to obtaining a right-of-way permit pursuant to this chapter, also receive any and all necessary road opening permits, construction permits and any other permits required under the Ordinances of the Borough of Mantoloking including, but not limited to the Uniform Construction Code.
- c. Applications for Borough consent pursuant to N.J.S.A. 27:16-6 requires adherence to the standards set forth in this chapter. No such applicant shall be required to enter into a right-of-way agreement with the Borough.

#### **§ 17-5 Violations and Penalties.**

Any person violating this Chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding two thousand (\$2,000.00) dollars per day or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

## Chapter 18: Stormwater Management and Control

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#### § 18-1 Stormwater management and controls.

##### § 18-1.1 Scope and Purpose.

- a. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- b. The purpose of this section is to establish minimum stormwater management requirements and controls for "major development," as defined below in Section **18-1.2**.
- c. Applicability.
  1. This section shall be applicable to the following major developments:
    - a. Non-residential major developments; and
    - b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
  2. This section shall also be applicable to all major developments undertaken by the Borough of Mantoloking.
- d. Development approvals issued pursuant to this section are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This section is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this section imposes restrictions different from those imposed by any other

ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

### **§ 18-1.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

#### **CAFRA CENTERS, CORES OR NODES**

Means those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

#### **CAFRA PLANNING MAP**

Means the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

#### **COMMUNITY BASIN**

Means an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this section.

#### **COMPACTION**

Means the increase in soil bulk density.

#### **CONTRIBUTORY DRAINAGE AREA**

Means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

#### **CORE**

Means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

#### **COUNTY REVIEW AGENCY**

Means an agency designated by the Board of County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

a. A county planning agency; or

b. A county water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

**DEPARTMENT**

Means the Department of Environmental Protection.

**DESIGN ENGINEER**

Means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

**DESIGNATED CENTER**

Means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

**DEVELOPMENT**

Means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

In the case of development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

**DISTURBANCE**

Means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

**DRAINAGE AREA**

Means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

**EMPOWERMENT NEIGHBORHOODS**

Means neighborhoods designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

**ENVIRONMENTALLY CONSTRAINED AREA**

Means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

**ENVIRONMENTALLY CRITICAL AREA**

Means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

**EROSION**

Means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

**GREEN INFRASTRUCTURE**

Means a stormwater management measure that manages stormwater close to its source by:

- a. Treating stormwater runoff through infiltration into subsoil;
- b. Treating stormwater runoff through filtration by vegetation or soil; or
- c. Storing stormwater runoff for reuse.

**HUC 14 or HYDROLOGIC UNIT CODE 14**

Means an area within which water drains to a particular receiving surface water body, also known as a sub-watershed, which is identified by a fourteen-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

**IMPERVIOUS SURFACE**

Means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

**INFILTRATION**

Means the process by which water seeps into the soil from precipitation.

**LEAD PLANNING AGENCY**

Means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

### **MAJOR DEVELOPMENT**

Means an individual "development," as well as multiple developments that individually or collectively result in:

- a. The disturbance of one or more acres of land since February 2, 2004;
- b. The creation of 1/4 acre or more of "regulated impervious surface" since February 2, 2004;
- c. The creation of 1/4 acre or more of "regulated motor vehicle surface" since March 2, 2021; or
- d. A combination of paragraphs b and c above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of paragraphs a, b, c or d above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

### **MOTOR VEHICLE**

Means land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

### **MOTOR VEHICLE SURFACE**

Means any pervious or impervious surface that is intended to be used by "motor vehicles" and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

### **MUNICIPALITY**

Means any city, borough, town, township, or village.

### **NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL or BMP MANUAL**

Means the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this section. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this section. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this section, provided the design engineer demonstrates to the municipality, in accordance with § 18-1.4f and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this section.

**NODE**

Means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

**NUTRIENT**

Means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

**PERSON**

Means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

**POLLUTANT**

Means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

**RECHARGE**

Means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

**REGULATED IMPERVIOUS SURFACE**

Means any of the following, alone or in combination:

- a. A net increase of impervious surface;

b. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);

c. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or

d. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

**REGULATED MOTOR VEHICLE SURFACE**

Means any of the following, alone or in combination:

a. The total area of motor vehicle surface that is currently receiving water;

b. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

**SEDIMENT**

Means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

**SITE**

Means the lot or lots upon which a major development is to occur or has occurred.

**SOIL**

Means all unconsolidated mineral and organic material of any origin.

**STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)**

Means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

**STATE PLAN POLICY MAP**

Is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

**STORMWATER**

Means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

**STORMWATER MANAGEMENT BMP**

Means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

**STORMWATER MANAGEMENT MEASURE**

Means any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

**STORMWATER MANAGEMENT PLANNING AGENCY**

Means a public body authorized by legislation to prepare stormwater management plans.

**STORMWATER MANAGEMENT PLANNING AREA**

Means the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

**STORMWATER RUNOFF**

Means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

**TIDAL FLOOD HAZARD AREA**

Means a flood hazard area in which the flood elevation resulting from the two-, ten-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

**URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD**

Means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

**URBAN ENTERPRISE ZONES**

Means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

**URBAN REDEVELOPMENT AREA**

Is defined as previously developed portions of areas:

- a. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- b. Designated as CAFRA Centers, Cores or Nodes;

c. Designated as Urban Enterprise Zones; and

d. Designated as Urban Coordinating Council Empowerment Neighborhoods.

#### **WATER CONTROL STRUCTURE**

Means a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, ten-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

#### **WATERS OF THE STATE**

Means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

#### **WETLANDS or WETLAND**

Means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

### **§ 18-1.3 Design and Performance Standards for Stormwater Management Measures.**

- a. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
  1. The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
  2. The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- b. The standards in this section apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules. Alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in N.J.A.C. 7:8-5.

#### § 18-1.4 Stormwater Management Requirements for Major Development.

- a. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 18-1.10.
- b. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergii* (bog turtle).
- c. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 18-1.4**p, q** and **r**:
  1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
  2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
  3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- d. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 18-1.4**o, p, q** and **r** may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
  1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
  2. The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of § 18-1.4**o, p, q** and **r** to the maximum extent practicable;
  3. The applicant demonstrates that, in order to meet the requirements of § 18-1.4**o, p, q** and **r**, existing structures currently in use, such as homes and buildings, would need to be condemned; and
  4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under

§ 18-1.4d3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 18-1.4o, p, q and r that were not achievable onsite.

- e. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in § 18-1.4o, p, q and r. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2(f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at: [https://njstormwater.org/bmp\\_manual2.htm](https://njstormwater.org/bmp_manual2.htm).
- f. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this section the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

**Table 1  
Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity**

<b>Best Management Practice</b>	<b>Stormwater Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Cistern	0	Yes	No	—
Dry well <sup>(a)</sup>	0	No	Yes	2
Grass swale	50 or less	No	No	2 <sup>(e)</sup> 1 <sup>(f)</sup>
Green roof	0	Yes	No	—
Manufactured treatment device <sup>(a) (g)</sup>	50 or 80	No	No	Dependent upon the device
Pervious paving system <sup>(a)</sup>	80	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Small-scale bioretention basin <sup>(a)</sup>	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Small-scale infiltration basin <sup>(a)</sup>	80	Yes	Yes	2
Small-scale sand filter	80	Yes	Yes	2
Vegetative filter strip	60 to 80	No	No	—

(Notes corresponding to annotations <sup>(a)</sup> through <sup>(g)</sup> are found after Table 3)

**Table 2  
Green Infrastructure BMPs for Stormwater Runoff Quantity  
(or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance  
from N.J.A.C. 7:8-5.3)**

<b>Best Management Practice</b>	<b>Stormwater Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Bioretention system	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Infiltration basin	80	Yes	Yes	2
Sand filter <sup>(b)</sup>	80	Yes	Yes	2
Standard constructed wetland	90	Yes	No	N/A
Wet pond <sup>(d)</sup>	50 to 90	Yes	No	N/A

(Notes corresponding to annotations <sup>(b)</sup> through <sup>(d)</sup> are found after Table 3)

**Table 3  
BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity  
only with a Waiver or Variance from N.J.A.C. 7:8-5.3**

<b>Best Management Practice</b>	<b>Stormwater Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Blue roof	0	Yes	No	N/A
Extended detention basin	40 to 60	Yes	No	1
Manufactured treatment device <sup>(h)</sup>	50 or 80	No	No	Dependent upon the device
Sand filter <sup>(c)</sup>	80	Yes	No	1
Subsurface gravel wetland	90	No	No	1
Wet pond	50 to 90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) Subject to the applicable contributory drainage area limitation specified at § 18-1.4o2;
- (b) Designed to infiltrate into the subsoil;
- (c) Designed with underdrains;
- (d) Designed to maintain at least a ten-foot wide area of native vegetation along at least 50% of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) Designed with a slope of less than 2%;
- (f) Designed with a slope of equal to or greater than 2%;
- (g) Manufactured treatment devices that meet the definition of green infrastructure at § 18-1.2;
- (h) Manufactured treatment devices that do not meet the definition of green infrastructure at § 18-1.2.

- g. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with § **18-1.6b**. Alternative stormwater management measures may be used to satisfy the requirements at § **18-1.4o** only if the measures meet the definition of green infrastructure at § **18-1.2**. Alternative stormwater management measures that function in a similar manner to a BMP listed in this Code are subject to the contributory drainage area limitation specified in this Code for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed in this Code shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with § **18-1.4d** is granted from § **18-1.4o**.
- h. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- i. Design standards for stormwater management measures are as follows:
1. Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);

2. Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § **18-1.8c**;
  3. Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;
  4. Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at § **18-1.8**; and
  5. The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of 2 1/2 inches in diameter.
- j. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at § **18-1.2** may be used only under the circumstances described at § 18-1.4o4.
- k. Any application for a new agricultural development that meets the definition of major development at § **18-1.2** shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at § **18-1.4o, p, q and r** and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
- l. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § **18-1.4p, q and r** shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the

individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.

- m. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Office of the Ocean County Clerk. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § **18-1.4o**, **p**, **q** and **r** and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to § 18-1.10b5. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.
- n. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to § **18-1.4** and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Office of the Ocean County Clerk and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality.
- o. Green Infrastructure Standards.
  - 1. This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
  - 2. To satisfy the groundwater recharge and stormwater runoff quality standards at § **18-1.4p** and **q**, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at § **18-1.4f** and/or an alternative stormwater management measure approved

in accordance with § 18-1.4g. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area
Dry well	1 acre
Manufactured treatment device	2.5 acres
Pervious pavement systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale bioretention systems	2.5 acres
Small-scale infiltration basin	2.5 acres
Small-scale sand filter	2.5 acres

3. To satisfy the stormwater runoff quantity standards at § 18-1.4r, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with § 18-1.4g.
  4. If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with § 18-1.4d is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with § 18-1.4g may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 18-1.4p, q and r.
  5. For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at § 18-1.4p, q and r, unless the project is granted a waiver from strict compliance in accordance with § 18-1.4d.
- p. Groundwater Recharge Standards.
1. This subsection contains the minimum design and performance standards for groundwater recharge as follows:

2. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 18-1.5, either:
  - a. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or
  - b. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.
3. This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to § 18-1.4p4 below.
4. The following types of stormwater shall not be recharged:
  - a. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - b. Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- q. Stormwater Runoff Quality Standards.
  1. This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
  2. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:

- a. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
  - b. If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
3. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with paragraph 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
  4. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

**Table 4 - Water Quality Design Storm Distribution**

<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500

**Table 4 - Water Quality Design Storm Distribution**

<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483

**Table 4 - Water Quality Design Storm Distribution**

<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
40	0.16600	80	1.0840	120	1.2500

- If more than one BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where:

- R = total TSS percent load removal from application of both BMPs.
- A = the TSS percent removal rate applicable to the first BMP.
- B = the TSS percent removal rate applicable to the second BMP.

- Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in § 18-1.4p, q, and r.
- In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95% of the anticipated load from the developed site, expressed as an annual average.
- This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to

December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

r. Stormwater Runoff Quantity Standards.

1. This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
2. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 18-1.5, complete one of the following:
  - a. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - b. Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
  - c. Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten- and 100-year storm events are 50%, 75% and 80%, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - d. In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with paragraphs 2(a), 2(b) and 2(c) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
3. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

**§ 18-1.5 Calculation of Stormwater Runoff and Groundwater Recharge.**

- a. Stormwater runoff shall be calculated in accordance with the following:
1. The design engineer shall calculate runoff using one of the following methods:
    - a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1044171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf) or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or
    - b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at: <http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>. The rational and modified rational method shall not be utilized for design detention facilities for areas larger than one acre.
  2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology above at § 18-1.5a1(a) and the Rational and Modified Rational Methods at § 18-1.5a1(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition,

there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation). The rational and modified rational method shall not be utilized for design detention facilities for areas larger than one acre.

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce preconstruction stormwater runoff rates and volumes.
  4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds or other methods may be employed.
  5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- b. Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at: <https://www.nj.gov/dep/njgs/pricelst/gsreport/gsr32.pdf> or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

#### **§ 18-1.6 Sources for Technical Guidance.**

- a. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at: [http://www.nj.gov/dep/stormwater/bmp\\_manual2.htm](http://www.nj.gov/dep/stormwater/bmp_manual2.htm).
  1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented.

Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.

2. Additional maintenance guidance is available on the Department's website at: [https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).
- b. Submissions required for review by the Department should be mailed to: The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

### **§ 18-1.7 Solids and Floatable Materials Control Standards.**

- a. Site design features identified under § 18-1.4f above, or alternative designs in accordance with § 18-1.4g above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 18-1.7a2 below.
  1. Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
    - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
    - b. A different grate, if each individual clear space in that grate has an area of no more than 7.0 square inches, or is no greater than 0.5 inch across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.
    - c. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than 7.0 square inches, or be no greater than 2.0 inches across the smallest dimension.

2. The standard in § 18-1.7a1 above does not apply:
  - a. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than 9.0 square inches;
  - b. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
  - c. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
    - i. A rectangular space 4.625 inches long and 1.5 inches wide (this option does not apply for outfall netting facilities); or
    - ii. A bar screen having a bar spacing of 0.5 inch.
    - iii. Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development [N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1].
  - d. Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
  - e. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

#### **§ 18-1.8 Safety Standards for Stormwater Management Basins.**

- a. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- b. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the

safety standards in § 18-1.8c1, c2 and c3 for trash racks, overflow grates, and escape provisions at outlet structures.

c. Requirements for Trash Racks, Overflow Grates and Escape Provisions.

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following.
  - a. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
  - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
  - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
  - d. The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
  - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
  - b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
  - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
3. Stormwater management BMPs shall include escape provisions as follows:
  - a. If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to § 18-1.8c, a free-standing outlet structure may be exempted from this requirement;
  - b. Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than 2 1/2 feet. Safety ledges shall be comprised of two steps. Each step shall be

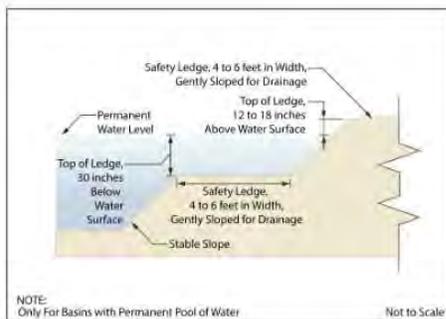
four to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See § 18-1.8e for an illustration of safety ledges in a stormwater management BMP; and

- c. In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

d. Variance or Exemption from Safety Standard. A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

e. Safety Ledge Illustration.

#### Elevation View - Basin Safety Ledge Configuration



### § 18-1.9 Requirements for a Site Development Stormwater Plan.

- a. Submission of Site Development Stormwater Plan.
  - 1. Whenever an applicant seeks municipal approval of a development subject to this section, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 18-1.9c below as part of the submission of the application for approval.
  - 2. The applicant shall demonstrate that the project meets the standards set forth in this section.
  - 3. The applicant shall submit four copies of the materials listed in the checklist for site development stormwater plans in accordance with § 18-1.9c.
- b. Site Development Stormwater Plan Approval. The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this section.

c. Submission of Site Development Stormwater Plan. The following information shall be required:

1. Topographic Base Map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
2. Environmental Site Analysis. A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
3. Project Description and Site Plans. A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.
4. Land Use Planning and Source Control Plan This plan shall provide a demonstration of how the goals and standards of §§ 18-1.3 through 18-1.5 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
5. Stormwater Management Facilities Map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
  - a. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management

- facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
6. Calculations.
    - a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in § 18-1.4.
    - b. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
  7. Maintenance and Repair Plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 18-1.10.
  8. Waiver from Submission Requirements. The municipal official or board reviewing an application under this section may, in consultation with the municipality's review engineer, waive submission of any of the requirements in § 18-1.9c1 through § 18-1.9c6 when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

**§ 18-1.10 Maintenance and Repair.**

- a. Applicability. Projects subject to review as in § 18-1.1c shall comply with the requirements of § 18-1.10b and § 18-1.10c
- b. General Maintenance.
  1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
  2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in

Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.

3. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
4. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
5. If the party responsible for maintenance identified under § 18-1.10b3 above is not a public agency, the maintenance plan and any future revisions based on § 18-1.10b7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
6. Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
7. The party responsible for maintenance identified under § 18-1.10b3 above shall perform all of the following requirements:
  - a. Maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
  - b. Evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
  - c. Retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by § 18-1.10b6 and § 18-1.10b7 above.

8. The requirements of § 18-1.10b3 and § 18-1.10b4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
  9. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- c. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

## **§ 18-2 Disposal of materials in the stormwater system prohibited.**

### **§ 18-2.1 Purpose.**

This section is intended to prohibit the spilling, dumping, or disposal of materials other than stormwater in the municipal separate storm sewer system (MS4) operated by the Borough of Mantoloking, so as to protect the public health, safety and welfare, and to prescribe penalties for the failure to comply.

### **§ 18-2.2 Definitions.**

As used in this section:

#### **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

Shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Mantoloking or other public body, and is designed and used for collecting and conveying stormwater.

#### **PERSON**

Shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

## **STORMWATER**

Shall mean water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

### **§ 18-2.3 Prohibited Conduct.**

The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Borough of Mantoloking is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

### **§ 18-2.4 Exceptions to Prohibition.**

- a. Water line flushing and discharges from potable water sources;
- b. Uncontaminated groundwater (e.g. infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters);
- c. Air conditioning condensate (excluding contact and non-contact cooling water);
- d. Irrigation water (including landscape and lawn watering runoff);
- e. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows;
- f. Residential car washing water, and residential swimming pool discharges;
- g. Sidewalk, driveway and street wash water;
- h. Flows from firefighting activities;
- i. Flows from rinsing of the following equipment with clean water:
  1. Beach maintenance equipment immediately following their use for their intended purposes; and
  2. Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practical using dry cleaning methods (e.g. shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded. Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

### **§ 18-2.5 Enforcement.**

This section shall be enforced by the Police Department of the Borough of Mantoloking.

## **§ 18-3 Private storm drain inlet retrofitting.**

### **§ 18-3.1 Purpose.**

The purpose of this section is to require the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Mantoloking so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

### **§ 18-3.2 Definitions.**

For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

#### **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

Shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Mantoloking or other public body, and is designed and used for collecting and conveying stormwater.

#### **PERSON**

Shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

#### **STORM DRAIN INLET**

Shall mean an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

#### **WATERS OF THE STATE**

Shall mean the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

### **§ 18-3.3 Prohibited Conduct.**

No person in control of private property (except a residential lot with one (1) single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen),

reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- a. Already meets the design standard below to control passage of solid and floatable materials; or
- b. Is retrofitted or replaced to meet the standard in subsection **18-3.4** below prior to the completion of the project.

#### **§ 18-3.4 Design Standard.**

Storm drain inlets identified in subsection **18-3.3** above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see subsection **18-3.4c** below.

- a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
  1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
  2. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
- b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
- c. This standard does not apply:
  1. Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
  2. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a

minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

- a. A rectangular space four and five-eighths (4 5/8) inches long and one and one-half (1 1/2) inches wide (this option does not apply for outfall netting facilities); or
  - b. A bar screen having a bar spacing of 0.5 inches.
3. Where flows are conveyed through a trash rack that has parallel bars with one (1) inch spacing between the bars; or
  4. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

#### **§ 18-3.5 Enforcement.**

This section shall be enforced by the Municipal Engineer and/or the Land Use Official of the Borough of Mantoloking.

#### **§ 18-4 Prohibiting illicit connections to stormwater system.**

##### **§ 18-4.1 Purpose.**

This section is intended to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Borough of Mantoloking so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

##### **§ 18-4.2 Definitions.**

The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJDES) Rules at N.J.A.C. 7:14A-1.2.

#### **DOMESTIC SEWAGE**

Shall mean water and wastewater from humans or household operations.

#### **ILLICIT CONNECTION**

Shall mean any physical or nonphysical connection that discharges domestic sewage, non-contact cooling water, process wastewater, or other industrial water (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Mantoloking, unless that discharge is authorized under NJPDES permit other than a Tier A. Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852). Nonphysical connections may include, but are not limited to, leaks, flows or overflows into the municipal separate storm sewer system.

## **INDUSTRIAL WASTE**

Shall mean non-domestic waste, including, but not limited to, those pollutants regulated under section 307(a), (b), or (c) of the Federal Clean Water Act. (33 U.S.C. Par. 1317(a), (b), or (c)).

## **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

Shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Mantoloking or other public body, and is designed and used for collecting and conveying stormwater.

## **NJPDES PERMIT**

Shall mean a permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

## **NON-CONTACT COOLING WATER**

Shall mean water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat), or finished product. Non-contact cooling water may, however, contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

## **PERSON**

Shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

## **PROCESS WASTEWATER**

Shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water.

## **STORMWATER**

Shall mean water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

### **§ 18-4.3 Prohibited Conduct.**

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Borough of Mantoloking, any domestic sewage, non-contact cooling water, process wastewater, or other industrial waste (other than stormwater).

### **§ 18-4.4 Enforcement.**

This section shall be enforced by the Engineer of the Borough of Mantoloking.

**§ 18-5 Violations and Penalties.**

Notwithstanding any other section of this Chapter or any other ordinance, the maximum penalty for violating any provision of this Chapter shall be, in the discretion of the Court, a fine of up to two thousand dollars (\$2,000.00) and/or imprisonment for a period of up to ninety (90) days and/or a period of community service not exceeding ninety (90) days.

Final Version

## Chapter 19

### RECYCLING; SOLID WASTE MANAGEMENT

#### Table of Contents

- §19-1 Solid waste and recycling regulations.
- §19-2 Disposal of yard waste.
- §19-3 Improper disposal of waste and recycling; littering.

#### § 19-1. Solid waste and recycling regulations.

##### § 19-1.1. Definitions. [Ord. No. 590 § 19-1]

The following terms utilized in this chapter shall be defined as follows:

**PERSON** — Shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

**STREET** — Shall mean any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing State, County or municipal roadway, and shall include the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

**DESIGNATED RECYCLABLE MATERIALS** — Shall mean those materials designated within the Ocean County District Solid Waste Management Plan to be source separated for the purposes of recycling.

**MULTIFAMILY DWELLING** — Shall mean any building or structure, or complex of buildings in which three (3) or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see N.J.S.A. 19:1E-99.19a) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under Subsection (j) of Section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C.55: 19A-1 et seq.).

**MUNICIPAL RECYCLING COORDINATOR** — Shall mean the person or persons appointed by the municipal Governing Body and who shall be authorized to, among other things, enforce the provisions of this section, and any rules and regulations which may be promulgated hereunder.

**RECYCLABLE MATERIAL** — Shall mean those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products.

**SOURCE-SEPARATED RECYCLABLE MATERIALS** — Shall mean recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

**SOURCE SEPARATION** — Shall mean the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** - Shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Mantoloking or other public body, and is designed and used for collecting and conveying stormwater.

**REFUSE & RECYCLING CONTAINERS / DUMPSTERS** - Shall mean any waste container that a person controls whether owned, leased, or operated, including dumpsters, recycling containers, trash cans, and/or garbage pails.

**STORMWATER** - Shall mean water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

**WATERS OF THE STATE** - Shall mean the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

**§ 19-1.2. Container and Dumpster Prohibited Conducted. [Ord. No. 588 § 3]**

- a. Any person who controls, whether owned, leased, or operated, a refuse and/or recycling container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.
- b. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Mantoloking.
- c. No individual shall utilize plastic bags to contain recycling materials.

**§ 19-1.3. Exceptions to Prohibition. [Ord. No. 588 § 4]**

- a. Permitted temporary demolition containers are not required to be covered but waste material shall not exceed the dumpster height by more than ten (10) inches.
- b. Large bulk items (e.g., furniture, bound carpet and padding, large appliances placed curbside for pickup).

**§ 19-1.4. Source Separation; Exemption from Source Separation Requirements. [Ord. No. 590 § 19-2]**

It shall be mandatory for all persons who are owners, tenants, or occupants of residential and nonresidential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Borough of Mantoloking, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the

owners, tenants, or occupants of such premises in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Borough of Mantoloking.

**§ 19-1.5. Collection of Recyclable Materials. [Ord. No. 590 § 19-3]**

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

**§ 19-1.6. Residential Dwelling Compliance Requirements. [Ord. No. 590 § 19-4]**

The owner of any property shall be responsible for compliance with this section. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every six (6) months during their occupancy.

**§ 19-1.7. Nonresidential Establishment Compliance Requirements. [Ord. No. 590]**

- a. All commercial and institutional generators of solid waste shall be required to comply with the provisions of this section.
- b. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- c. Every business, institution, or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.
- d. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/ or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

**§ 19-1.8. New Developments of Multifamily Residential Units or Commercial, Institutional, or Industrial Properties (Pursuant to N.J.S.A. 19:1E-99.19a and 99.16c). [Ord. No. 590 § 19-6]**

- a. Any application to the Planning Board of the Borough of Mantoloking, for subdivision or site plan approval for the construction of multifamily dwellings of three (3) or more units, single-family developments of fifty (50) or more units or any commercial, institutional, or industrial development for the utilization of one thousand (1,000) square

feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:

1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and
  2. Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Municipal Recycling Coordinator.
- b. Prior to the issuance of a Certificate of Occupancy by the Borough of Mantoloking, the owner of any new multifamily housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.
  - c. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Municipal Engineer.

**§ 19-1.9. Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials.**  
[Ord. No. 590 § 19-7]

- a. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- b. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local Sanitary Code.
- c. Once placed in the location identified by this section, or any rules or regulations promulgated pursuant to this section, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

**§ 19-1.10. Collection by Unauthorized Persons.**

It shall be a violation of this section for any unauthorized person or organization to stop to inspect, collect, pick up or cause to be collected or picked up within the boundaries of the Borough any of the recyclable materials or any other solid waste or other material left at any curbside.

**§ 19-1.11. Enforcement. [Ord. No. 590 § 19-8]**

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

**§ 19-2. Disposal of yard waste.**

**§ 19-2.1. Yard Waste Regulations. [Ord. No. 505 § III; amended 12-17-2019 by Ord. No. 701]**

- a. The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste in the street, except as provided for herein.
- b. Each residential property is permitted three containers, bags or bundles of yard waste or garbage per designated pick up day.
- c. Leaves and other yard waste shall be separated from dirt and solid waste.
- d. Leaves and yard waste in excess of the three permitted containers must be placed at the curb, unless leaves are stored or recycled for composting or mulching by the resident or property owner. Yard waste may be in a container, bagged, or tied in bundles and may include clippings, grass, leaves, small branches and yard trash. Bundles must be less than four feet in length and weigh less than 40 pounds.

**§ 19-2.2. Enforcement. [Ord. No. 505 § IV]**

The provisions of this section shall be enforced by the Police Department of the Borough of Mantoloking.

### **§ 19-3. Improper disposal of waste and recycling; littering.**

#### **§ 19-3.1. Prohibited Conduct.**

The spilling, dumping or disposal of materials other than stormwater to the municipal separate storm sewer system in the Borough of Mantoloking is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited. The following actions/items shall be exempt from this requirement:

- a. Waterline flushing and discharges from potable water sources;
- b. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters)
- c. Air-conditioning condensate (excluding contact and noncontact cooling water).
- d. Irrigation water (including landscape and lawn watering runoff).
- e. Residential car-washing water and residential swimming pool discharges.
- f. Sidewalk, driveway and street wash water.
- g. Flows from firefighting activities.

#### **§ 19-3.2. Littering.**

It shall be unlawful for any person to throw, drop, discard or otherwise place litter of any nature upon any public or private property other than a litter receptacle. Depositing litter into the bay or ocean is strictly prohibited. No person shall sweep into or deposit in any gutter, street or other public place within the Borough the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

#### **§ 19-3.3. Enforcement.**

This article shall be enforced by the Police Department and/or the Code Enforcement Officer of the Borough of Mantoloking.

### **§ 19-4. Violations and Penalties.**

Any person violating this Chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding two thousand (\$2,000.00) dollars per day or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Final Version

## **Chapter 20: Sewers**

### **Table of Contents**

- **§20-1 Ocean County Sewerage Authority**
- **§20-2 Regulating the Use of Sewers**

#### **§ 20-1 Ocean County Sewerage Authority.**

##### **§ 20-1.1 Borough to Become Part of Sewerage Authority.**

- a. It has been established that it is in the best interest of the Borough of Mantoloking to become part of the district of the Ocean County Sewerage Authority established pursuant to the provisions of the Sewerage Authority's law (P.L. 1946, c 138) of New Jersey as an aid in achieving relief from pollution or threatened pollution of waters in or bordering the State from causes arising within the County and consequent conditions affecting the public health thereof.
- b. The Borough of Mantoloking shall become part of the district of the Ocean County Sewerage Authority.

##### **§ 20-1.2 Agreement with Dover Sewerage Authority.**

- a. Pursuant to the provisions of a certain Ordinance adopted by the Borough of Mantoloking on the 27th day of February, 1971 wherein the Borough of Mantoloking determined that it would participate as part of the district of the Ocean County Sewerage Authority, and, in accordance with the Master Plan for Waste Water Management, as revised by the Ocean County Sewerage Authority, Resolution No. 73-231, dated July 5, 1973, it has been determined that the Borough of Mantoloking is included in the Central Service Area and that waste water treatment for the Central Service Area will be provided by the Ortley Beach waste water treatment facility, presently operated by the Dover Sewerage Authority.
- b. To facilitate timely and economical implementation of the intentions expressed in paragraph a and to comply with applicable statutes, rules and regulations of various interested governmental agencies, it is deemed necessary and appropriate that the Borough of Mantoloking execute an agreement with the Dover Sewerage Authority whereunder the Dover Sewerage Authority will accept sanitary sewage effluent from Mantoloking and will transmit, transport, and dispose of said sewage in a good and efficient manner at its Ortley Beach treatment facility until such time as said facility shall be operated by Ocean County Sewerage Authority.

- c. The Borough of Mantoloking shall enter into the proposed service agreement with the Dover Sewerage Authority and the Mayor, upon final passage of this Ordinance, shall execute the agreement on behalf of the Borough.

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## **§ 20-2 Regulating the use of sewers.**

### **§ 20-2.1 Connection to Sewer System Required.**

- a. All plumbing fixtures of any nature whatsoever situated within the Borough shall be connected to the sanitary sewerage system of the Borough within nine (9) months from the date of notification by publication in a newspaper of general circulation in the community that the system is operational and approved for connection.
- b. No connection shall be made to, into, or with the streets, mains, sewers, laterals, or other sewerage facilities of the Borough, unless the owner, or his duly authorized agent, shall have obtained a plumbing permit issued by the Borough Construction Official or his designee. Permit applications shall be made upon forms furnished by the Borough and submitted to the Construction Official or his designee together with payment of the application fee of ten (\$10.00) dollars and inspection fees at such rates as are, or may be, from time to time, charged by the Ocean County Office of Construction and Inspection.

### **§ 20-2.2 Design and Construction Standards.**

In order to insure that all new sewers and connections are properly designed and constructed, they shall be in conformance with the standards as promulgated by the State Uniform Construction Code and amendments thereto effective as of the date of application. Upon completion of each new sewer or connection, the Borough shall have same inspected and issue an approval only if said new sewer or connection is constructed in conformance with the aforesaid standards.

### **§ 20-2.3 Connection Fees and Costs.**

- a. All costs shall be borne by the owner of the premises served.
- b. The fee for connecting to the sanitary sewerage system shall be one hundred (\$100.00) dollars. This fee includes the fee for inspection of this connection.

### **§ 20-2.4 New Connections from Inflow Sources.**

All new connections from inflow sources into the sanitary sewerage portions of the sewerage system are hereby prohibited.

### **§ 20-2.5 User Rates and Charges.**

- a. All owners of improved premises subject to connection and who have not connected and paid shall pay a prorated annual sewer charge. The prorated charge shall be due and payable from the expiration of the six-month period and shall be paid in full not later than seven months from the announcement of availability of connection.

b. There are hereby established the following annual rates and charges to be imposed by the Borough for the use and service of the sanitary sewerage system:

1. The minimum charge per unit shall be three hundred forty dollars and seventy cents (\$340.70) annually. In addition to the minimum charge each user shall pay a fee of \$16.31 (sixteen dollars and thirty-one cents) per fixture for all fixtures over four (4) exclusive of the laundry facility and one (1) dishwasher.
2. The annual sewer charge based on the type of property shall be as follows: ("X" indicates one unit)

<b>Single-family dwelling, apartment unit</b>	<b>1X</b>
<b>Commercial establishments-retail stores</b>	<b>1X</b>
<b>Churches</b>	<b>1X</b>
<b>Yacht clubs</b>	<b>1.5X</b>

3. In addition to the foregoing charges, any user who discharges toxic pollutants into the system which causes increased operations and maintenance costs shall be responsible for such increased operation and maintenance costs.

c. Each user shall be provided with an annual statement of the sewer charges. The annual sewer charges shall be due and payable on April 20th of each year and shall become delinquent unless paid within the ten (10) day grace period after stated due date of April 20th each year. Failure to timely pay the sewer charges will expose the property to a municipal lien sale. Delinquent sewer accounts shall accrue interest at the rate of twelve (12%) percent per annum.

**§ 20-2.6 Violations and Penalties.**

Any person violating this section or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding two thousand (\$2,000.00) dollars per day or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

## Chapter 22

### Soil and Soil Disturbance

#### Table of Contents

- §22-1 Findings; Purpose
- §22-2 Definitions
- §22-3 Application Requirements
- §22-4 Information Required for Application
- §22-5 Application and Inspection Fees
- §22-6 Regulations
- §22-7 Enforcement
- §22-8 Revocation of Permit; Violations and Penalties

#### § 22-1 Findings; purpose. [Ord. No. 2013-621]

This chapter 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:

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

**§ 22-2 Definitions. [Ord. No. 2013-621]**

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

**APPLICANT**

Shall mean 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**

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**

Shall mean 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**

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

**IMPORT**

Shall mean the importation of soil or bringing soil to any premises from any location off site or off the premises.

**MOVE**

Shall mean 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**

Shall mean a Soil Disturbance Permit issued under the terms of this chapter.

**PREMISES**

Shall mean 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**

Shall mean 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**

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

**TOPSOIL**

Shall mean 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 one-half (1/2) inch in any dimension and shall have not less than a 5.8 pH value. Topsoil shall not be chemically or physically contaminated soils.

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**§ 22-3 Application requirements. [Ord. No. 2013-621]**

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:

- a. 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.
- b. 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.
- c. The requirements of this chapter shall not apply when one of the following occurs or is proposed for the development of a project:
  1. When the removal and exportation of soil is required as a result of excavation for the development of one (1) single-family dwelling or accessory structures and site improvements, including in-ground swimming pools, patios, driveways, and gardening primarily for home consumption; or
  2. 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 the Land Use Chapter of the Mantoloking Code; or
  3. 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.

**§ 22-4 Information required for application. [Ord. No. 2013-61]**

- a. The application for a Soil Disturbance Permit shall be filed with the Borough Engineer and shall include the following documentation:
1. Owner, applicant, and contractor names, and their respective street addresses, email addresses, and telephone numbers.
  2. The name, street address, email address, and telephone number of the excavator, if different than the contractor.
  3. The location of the subject property, including block/lot and street address, for which the soil disturbance activities are to occur.
  4. Name of project, if applicable.
  5. 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.
  6. A map of the premises, showing the proposed contour lines and proposed grades resulting from such removal or importation in relation to the existing topography of the premises.
  7. Earthwork calculations for total volume of cut/fill for export or import of clean fill and/or clean topsoil for the subject application.
  8. Application fee, as identified in this chapter.
  9. 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.
  10. Project schedule, including start of soil disturbance activities, duration of activities, and anticipated completion date.
  11. The impact of the proposed disturbance to all adjacent properties, both during and after development or disturbance.

**§ 22-5 Application and inspection fees. [Ord. No. 2013-621]**

- a. Application Fee. Each application shall be accompanied by an application fee in the amount of \$250.00 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.
- b. 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 in the amount of five hundred dollars (\$500.00).

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**§ 22-6 Regulations. [Ord. No. 2013-621]**

- a. 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.
- b. 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.
- c. All soil disturbance activities shall be completed without producing negative impacts on adjoining private properties, adjoining public property, or adjoining public rights-of-way.
- d. All soil disturbance activities shall be completed so that there shall be no sharp declivities, pits or depressions and so that the area shall be properly leveled off, cleared of debris, and graded to conform with the contour lines and grades as approved.
- e. All earthwork activities shall be completed to ensure the preconstruction 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.
- f. All imported material shall be clean fill, as defined in this chapter, and shall be free of any chemical or physical contamination.
- g. No staging or stockpiling of clean fill shall be permitted within public rights-of-way or off site.
- h. Stripping of vegetation, grading, or other soil disturbances shall be done in a manner that shall minimize soil erosion.
- i. Whenever feasible, natural vegetation shall be retained and protected.
- j. 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.
- k. 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.

- l. The hours of operation and acceptable noise levels for all approved soil disturbance activities shall comply with all other applicable chapters of this Code.
- m. 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.
- n. 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.
- o. The detailed specifications and standards for any Soil Disturbance Permit shall be dictated by the specific characteristics of the subject premises, 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.

**§ 22-7 Enforcement. [Ord. No. 2013-621]**

The Borough Engineer or Zoning Official 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 or Zoning Official 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.

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**§ 22-8 Revocation of Permit; Violations and Penalties.** [Ord. No. 2013-621]

- a. Notwithstanding any other section of this Chapter or any other ordinance, the maximum penalty for violating any provision of this Code shall be, in the discretion of the Court, a fine of up to two thousand dollars (\$2,000.00) and/or imprisonment for a period of up to ninety (90) days and/or a period of community service not exceeding ninety (90) days.
- b. Upon order of the court, the violator shall pay all costs associated with analytical testing, remediation, removal, and proper disposal of soil/fill material determined to not to comply with the definition of acceptable soil fill.

Final Version

§ 30-1. TITLE.

This chapter may be cited and referred to as "The Land Use Regulations of the Borough of Mantoloking."

§ 30-2. DEFINITIONS.

A. For the purpose of this chapter, certain words or phrases shall be interpreted in the following manner:

1. Words used in the present tense include the future tense.
2. Words used in the singular include the plural, and conversely words in the plural include the singular.
3. The word "applicant" includes the word "developer;" the word "lot" includes the word "plot"; the word "occupied" includes the phrase "intended to be occupied"; the word "person" includes a corporation as well as an individual; the word "use" includes the phrase "intended to be used";
4. The word "shall" is mandatory and not discretionary.
5. The word "abut" shall include the words "directly across from," "adjacent" and "next to."
6. The word "demonstrate" means to provide such visual, written or oral information as will enable the designated reviewing agency or board to ascertain the scope of and nature of a proposed use or operation, and to render an informed opinion or decision thereon.

B. Statutory definitions. Wherever a term which is defined in N.J.S.A. 40:55D-1 et seq. and/or the New Jersey State Uniform Construction Code is used in this chapter, such term is intended to include and have the meaning set forth in the definition of such term found in said statute, in addition to the definition for such term which may be included below, unless the context clearly indicates a different meaning.

C. Definitions

**ACCESS AISLE**

The traveled way by which vehicles enter and depart parking spaces.

**ACCESS DRIVE**

A path or passage providing a means of approach or entrance to a lot.

**ACCESSORY STRUCTURE**

A building or structure subordinate to and customarily incidental to the principal building or structure on the same lot. Where an accessory building is attached to the principal building, the accessory building shall be considered a part of the principal building. A detached structure may not become attached to the principal dwelling unless it conforms to the principal building setbacks and coverage requirements.

**ACCESSORY USE**

A subordinate use, the purpose of which is customary and incidental to that of a main use or building on the same lot(s), other than for living space.

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**ADMINISTRATIVE OFFICER**

The Zoning Officer of the Borough of Mantoloking.

**ALTERATIONS**

Applied to a structure, means one of the following:

- a. Change or rearrangement in the structural supports;
- b. Change in height, width, depth or volume; or
- c. Moving a building or structure from one location or position to another location or position.

**APPLICANT**

An individual or any other legal entity submitting an application for development.

**APPLICATION FOR DEVELOPMENT**

The application form and all accompanying documents required by Ordinance for approval of a subdivision plat, site plan, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40:55D-36.

**APPROVING AUTHORITY**

Planning Board of the Borough of Mantoloking.

**AS BUILT PLANS OR SURVEYS**

Plans or surveys indicating the precise description and location of all completed improvements to a parcel of land.

**ATTIC**

The level(s) proximately below the roof of a building and above the second story, which may be constructed or utilized for habitation.

**BALCONY**

A platform that projects from the wall of a building and is bordered by a railing, balustrade or parapet.

**BOAT LIFTS AND DAVIT(S)**

A boat lift is a mechanical device which is utilized to elevate a boat (of any nature or type) and to store it above the water. A davit is a mechanical device utilized to elevate a boat (of any nature or type) and to deposit it on land or a fixed structure. This definition shall be construed to include any and all devices or structures utilized to elevate or lower boats from or into abutting waters.

**BUFFER**

An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or berms, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties.


  
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**BUILDING**

A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

**BUILDING ENVELOPE**

The area of a lot within the front, rear and side setback lines within which a building may be placed.

**BUILDING HEIGHT**

The vertical distance measured from the highest point of the building, excepting ordinary projections of chimneys and vent pipes, to the grade of the crown of the abutting road at the center of the lot in question. See Subsection 30-6.12.

**BUILDING LINE**

The front, rear, and side setback lines comprising the building envelope beyond which a structure shall not extend unless otherwise provided in this chapter.

**BULKHEAD LINE**

That line as set forth on the Riparian Atlas Sheets, New Jersey Department of Environmental Protection, pictorially shown on the municipal tax maps but subject to specific land surveys for proper location.

**CAPITAL IMPROVEMENT**

A governmental acquisition of real property or major construction project.

**CELLAR**

A level wholly or partly underground and having more than one-half (1/2) of its clear height below the average level of the adjoining ground. The one half (1/2) criteria shall be determined as an average of the cellar heights at all sides of the structure. No portion of a cellar shall be constructed or utilized for habitation.

**CERTIFICATE OF COMPLETENESS**

A document issued by the Borough Zoning Officer indicating that an application for development is complete.

**CERTIFICATE OF OCCUPANCY**

A document issued by the Construction Official upon completion of construction and/or alteration of any building or the change in occupancy of a commercial or industrial building.

**CIRCULATION**

Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

**CONSTRUCTION, COMMENCEMENT OF**

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The actual start of construction, repair, reconstruction, placement, or other improvement. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a cellar, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. The time limitations of the Uniform Construction Code shall apply to construction commenced pursuant to the issuance of a building permit.

**CONSTRUCTION OFFICIAL**

The administrator of the Uniform Construction Code of the Borough of Mantoloking.

**CORNER LOT**

A lot fronting on two (2) or more streets at their intersection. Corner lots shall have two front yards and two side yards. For development purposes, a property owner shall be entitled to determine which front yard shall be considered the front yard for setback purposes

**CURB**

A stone, concrete or other improved boundary marking the edge of the roadway or paved area.

**DECK**

An open floor-like structure, without side walls or roof and with open joints between deck planking. Deck area shall include stairs, walkways, patios, pool surrounding access, entrance porches, platforms and like structures of similar construction.

**DENSITY**

The permitted number of dwelling units per gross area of land to be developed.

**DEVELOPMENT**

The division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this chapter or other Ordinances of the Borough.

**DEVELOPMENT PERMIT**

Written evidence of the approval of the Planning Board for a subdivision, site plan, zoning variance, or other application for land use.

**DORMER**

A structure which projects through a sloping roof and which has side walls and does not extend beyond the lowest edge of the sloping roof. A dormer shall be further defined, graphically, as presented in "Architectural Graphic Standards", American Institute of Architects, latest edition.

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**DRAINAGE**

The removal of surface water or groundwater from land by drains, grading or other means, including control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

**DRAINAGE RIGHT-OF-WAY**

The lands required for the installation of storm water sewers providing for the flow of water therein to safeguard the public against flood damage.

**DRIVEWAY**

A defined paved or unpaved surface providing vehicular access to a street. A driveway is not a road, street, boulevard, highway or parkway.

**DUNE AREA**

The area between the seaward edge of the dune and the landward edge of the dune. The seaward edge of the dune is the intersection line of the foreslope of the dune and the gradient of the beach area, or the contour line at an elevation of nine (9) feet above mean high water, or the vegetation line, or the upper driftline, whichever is the more easterly, except when the Borough Engineer may have caused stakes to be driven to mark the seaward edge of the dune, in which case it is the line between such stakes. The landward edge of the dune is the intersection line of the backslope of the dune and the grade of the land extending from the east boundary of New Jersey Route 35 or East Avenue eastwardly, or the line joining the average landward edge of the dune of the adjoining oceanfront properties, or a line parallel to and sixty (60) feet west of the seaward edge of the dune, whichever is the more westerly.

**DUNE REFERENCE LINE/SEAWALL LINE**

A common line shown on the Tax Maps of the Borough that is between a buildable lot and the OS Lot.

[Ord. No. 2013-617]

**DWELLING**

Any building or portion thereof designed or used exclusively for one (1) or more dwelling units.

**a. DWELLING UNIT**

A building or part thereof having cooking, sleeping and sanitary facilities designed for or occupied by one (1) family and which is entirely separated from any other "dwelling unit" in the building by vertical walls or horizontal floors, unpierced except for access to the outside or a common cellar.

**b. DWELLING, SINGLE-FAMILY**

A building designed for or containing one (1) dwelling unit.

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**c. DWELLING, TWO-FAMILY**

A building designed for or containing two (2) dwelling units which are entirely separated from each other by vertical walls or horizontal floors, unpierced except for access to the outside or a common cellar.

**ENTRANCE PORCH**

An unroofed open area attached to or part of the entrance to a building.

**ENTRY OR GARDEN ARCHWAY**

A structure of wood or other materials, formed in the shape of an arch.

**EROSION**

The detachment and movement of soil, sand or rock fragments by water, wind, ice or gravity.

**ESSENTIAL SERVICES**

Underground gas, electrical, telephone, telegraph, or water transmission or distribution systems, including mains, drains, sanitary sewers, pipes, conduits and cables; and including normal aboveground appurtenances, such as fire alarm boxes, police call boxes, light standards, poles, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities and municipal and other governmental agencies and for the public health, safety, and general welfare of the inhabitants of Mantoloking.

**EXCEPTION**

A permitted departure from certain requirements for site plan and design approval.

**EXISTING GRADE.**

The surface elevation of the land prior to the start of any land disturbance associated with any planned development project which is used to determine allowable heights of pools, decks, fences and accessory structures.

**FAMILY**

One (1) or more persons living together as a bona fide single non-profit housekeeping unit as distinguished from a commercial residence, non-familial institutional use, boarding house, rooming house, fraternity, sorority, club, hotel or an assemblage of persons organized and existing principally to share the expense of occupancy.

**FENCE**

A combination of materials forming an enclosure, or portion thereof, of an open area and designed to prevent straying from within or intrusion from without the enclosure or to provide a visual barrier.

**FINAL APPROVAL**

The official action of the Planning Board taken on a preliminarily approved site plan or subdivision after all conditions, engineering plans and other requirements have been

completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

### **FINAL PLAT**

The final map of all or a portion of a site plan or subdivision which is submitted to the Planning Board for final approval in accordance with the provisions set forth in this chapter, and which, if approved, shall be filed with the proper County Recording Officer.

### **FLOOD HAZARD AREA**

The Borough of Mantoloking is within a Flood Hazard Area as indicated on the official Flood Insurance Rate Maps (FIRM) of the Borough of Mantoloking, Ocean County, New Jersey, most recently issued and approved by the National Flood Insurance Program, Federal Emergency Management Agency, as the same may, from time to time, be amended by the National Flood Insurance Program in accordance with the procedure provided by law. See Chapter **23**, Flood Damage Prevention.

### **FLOOR AREA**

The total enclosed floor area of a building used for residential purposes or for business or commercial activities which, in the case of the latter, include customer facilities, showcase facilities, storage and sale facilities.

### **GAMBREL ROOF**

A curb roof of the same section in all parts with a lower steeper slope and an upper flatter one.

### **GARAGE**

An enclosed building used as an accessory to the main building which provides for storage of motor vehicles and other items. A garage may not be constructed or utilized for habitation. Garages are accessory structures and shall be constructed to comply with FEMA standards. In a "V" zone area as delineated on the Borough's Flood Insurance Rate Map, construction of garages shall be consistent with FEMA guidelines as described in FEMA Technical Bulletin 9-99 for flood resistance and impacts, and as further described in this chapter as Subsections **30-4.2j** and **30-4.3** et seq.

### **GRADE**

The elevation of the surface of lawns, walks and roads brought to grade as shown on official plans or designs related thereto, or already in existence.

### **HABITABLE FLOOR**

A floor of the dwelling that is code compliant at the time of construction. It could include living space, mechanical spaces or rooms, elevators, laundry rooms, hallways and the like. A covered porch is included as part of the habitable floor. Open uncovered decks, exterior stairs, and exterior landings are not included in the habitable floor calculations. If parking is not integrated underneath the first habitable floor, an attached garage must be two (2) stories tall for it to be considered part of the first habitable floor. The second story of an attached garage may be 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 habitable story where the floor area of (finished living space) with headroom of seven (7) feet or more occupies less than thirty-three and one-third (33 1/3%) percent of the floor area of the second story below. This definition shall be consistent with the current definition for a "habitable attic" as contained in the UCC (Uniform Construction Code) requirements.

**HARDSCAPING**

Any non-living components of a yard or landscape, including paver walkways or patios and the like, asphalt, concrete, and all else placed on or in the surface of the land.

**IMPERVIOUS AREA**

That portion of a lot which is covered by impenetrable or impermeable material, including but not limited to any type of cement, asphalt, bricks, pavers or similar materials which will impede or limit the penetration of water to the substrata. Gravel, crushed stone, lawns or other vegetation shall not be deemed impermeable. Pavers set in sand or fine stone shall be calculated at eighty (80%) percent for lot coverage purposes.

**IMPERVIOUS COVERAGE, TOTAL**

The maximum lot area which may be covered by buildings, structures, areas under roofs, awnings or eaves, decks, swimming pools, or impervious areas. The total impervious coverage for all lots in all zones is forty-five (45%) percent.

**LAND**

Real property which includes improvements and fixtures on, above or below the surface.

**LANDING**

An area of a floor near the top or bottom step or a stair. An intermediate landing is a small platform that is built as part of the stair between the main floor levels and is typically used to allow stairs to change directions, or to allow the user to rest. A landing is limited to approximately the width of the stairs by approximately the same dimension for the depth of the landing. Any "landing platform" that would be greater than one (1) foot more than the width of the stairs would be considered to be a "deck" in accordance with the definitions contained in this chapter. See illustration attached.

**LOT**

A designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

**LOT AREA**

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Lot area consists of the acreage or square footage of a lot contained within the lot lines of the property.

Barnegat Lane, as presently constructed, incorporates a portion of the area of some abutting lots into the paved roadway. To the extent necessary to achieve minimum area compliance, the paved portion of the lot shall be included in lot area and lot coverage calculations. However, lot area covered by paved roadway infrastructure within the lot property limits need not be included as part of the impervious area in the calculation of lot coverage.

### **LOT COVERAGE**

That portion of the lot covered by impervious surfaces, i.e., the ratio of the total area of all impervious surfaces to the lot area. Including

- (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) The total area under a permanent awning that has leg supports or extends more than three feet out from a building.
- (e) When a roof eave or other type of roof extension is more than two and one-half (2 1/2) feet out from a building, the area extending more than two and one-half (2 1/2) feet out from the building.
- (f) Decks which are more than eight (8) inches above existing grade.

Lot coverage does not include Decks which are less than eight (8) inches above existing grade; Swimming pools; Areas covered with gravel, crushed stone, lawns or other vegetation. Steps and stair platforms over a permeable area up to two hundred (200) square feet in area in both front and rear yards and seventy-five (75) square feet in only one (1) side yard area.

### **LOT DEPTH**

The average horizontal distance between the front and rear lot lines.

### **LOT FRONTAGE**

The horizontal distance of lot lines or portions thereof which are coexistent with a street line. In the case of a street of undefined width, the lot lines shall be assumed to parallel the center line of the street at a distance of fifty (50%) percent of the statutory street right-of-way width.

### **LOT LINE**

Any line designating the extent or boundary of a lot which shall be further defined as follows:

#### **a. FRONT LOT LINE**

A lot line or portion thereof which is coexistent with a street line or a line defined in the definition of Yard, Front.

#### **b. REAR LOT LINE**

The lot line most distant and generally opposite the front lot line.

#### **c. SIDE LOT LINE**

Any lot line other than a front or rear lot line.

**LOT WIDTH**

The shortest distance between the side lines measured through the midpoint of a line parallel to the front line or street line located at a distance from the street line (or front lot line) equal to one-half (1/2) the required lot depth or one-half (1/2) the actual lot depth; whichever is less. On corner lots, one (1) front lot line shall be considered a side lot line for the purpose of determining lot width and setbacks.

**MAINTENANCE GUARANTEE**

Any security which may be accepted by the Borough for the maintenance of any improvements required by this chapter, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5, and cash.

**MEAN HIGH WATER LINE**

The line found by the intersection of a plane at the elevation of Mean High Water with the existing slope of the beach.

**MOBILE HOME**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

**NONCONFORMING LOT**

A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a Land Use Ordinance, but which fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.

**NONCONFORMING STRUCTURE**

A structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a Land Use Ordinance, but which fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.

**NONCONFORMING USE**

A use or activity which was lawful prior to the adoption, revision or amendment of a Land Use Ordinance, but which fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.

**OFF-STREET PARKING SPACE**

A storage area for a motor vehicle that is directly accessible to an access aisle and that is not located within a dedicated street right-of-way.

**OFF-TRACT**

Not located on the property which is the subject of a development application nor on the closest half (1/2) of the abutting street or right-of-way.

**ON-SITE**

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Located on the lot in question and excluding any abutting street or right-of-way.

**ON-TRACT**

Located on the property which is the subject of a development application or on the closest half (1/2) of an abutting street or right-of-way.

**OWNER**

An individual, firm, association, syndicate, copartnership, corporation, trust or other entity having sufficient legal or equitable interest in a parcel of land to commence and maintain proceedings for development or subdivision under the provisions of this chapter.

**PARKING SPACE**

An off-street space provided for the parking of a motor vehicle with an area of nine (9) feet wide and eighteen (18) feet long, excluding abutting or adjacent passageways and driveways.

**PARTIAL DESTRUCTION**

The demolition or destruction of a structure (regardless of whether the act was intentional or inadvertent) which results in no less than two (2) complete walls and a foundation remaining.

**PERFORMANCE GUARANTEE**

Any security which may be accepted by the Borough of Mantoloking, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5, and cash.

**PLANNING BOARD**

The combined Planning and Zoning Board of Adjustment of Mantoloking Borough.

**PLAT**

A map or maps of a site plan or subdivision.

**PORCH**

A structure that is attached to a building and extends from the walls of the dwelling. It may be enclosed, but must have a roof and/or ceiling and floor.

**PRELIMINARY APPROVAL**

The conferral of certain rights pursuant to this chapter prior to final approval after specific elements of a development plan have been agreed upon by the Zoning Officer or the Planning Board and the applicant.

**PRELIMINARY FLOOR PLANS AND ELEVATIONS**

Architectural drawings prepared early in order to delineate the introductory stages of the design of a project illustrating in a schematic form, its scope, scale and relationship to the site and immediate surroundings.

**PRELIMINARY PLAT**

The preliminary map indicating the proposed layout of the site plan or subdivision which is submitted for consideration by the Zoning Officer or the Planning Board for the purpose of receiving tentative approval and meeting the requirements of this chapter.

**PRINCIPAL USE**

The primary or main purpose for which a building lot is being utilized.

**PROFESSION**

The office of a member of a recognized profession which shall include, but is not limited to, the offices of doctors or physicians, dentists, optometrists, ministers, architects, professional engineers, land surveyors, lawyers, artists, authors, and real estate brokers.

**PUBLIC AREA**

Public areas shall include:

- a. Public parks, playgrounds, trails, paths and other recreational areas;
- b. Other public open spaces;
- c. Scenic and historic sites; and
- d. The sites of public buildings and structures.

**PUBLIC DRAINAGE WAY**

The land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

**RIPARIAN LANDS**

Lands covered or traversed by flowing tidal waters.

**RUNOFF**

Rainfall or other accumulations of water that are not absorbed directly by soil or sand.

**SATELLITE DISH ANTENNA**

Any signal receiving device (dish antenna or dish type antenna), the purpose of which is to receive communication or other signals from a satellite in the earth's orbit and/or other extraterrestrial sources. Satellite dish antenna also refers to "ground stations" and "earth stations" and includes accompanying apparatus including, but not limited to, a grounding rod and coaxial cable.

**SCREENING**

Any dense grouping of trees or shrubbery for the purpose of providing a continuous view obstruction within a site or property. The type of vegetation to be used in screening shall be at the discretion of the Zoning Officer. See Subsection **30-4.6**.

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**SEDIMENTATION**

The deposition of soil and sand that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

**SETBACK**

The horizontal distance between a building or structure and any front, side or rear lot line, measured perpendicular to such lot lines at the point where the building is closest to such lot lines.

**SETBACK LINE**

The line beyond which the building envelope shall not extend.

**SIDEWALK**

A way for carrying pedestrian traffic.

**SIGN**

Any device, structure or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge or insignia of any public agency.

**SITE IMPROVEMENT**

Any construction work on, or improvement in connection with, residential development limited to streets, roads, parking facilities, sidewalks, drainage structures, and utilities.

**SITE PLAN**

A development plan of one (1) or more lots on which is shown:

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways;
- b. The location of all existing and proposed buildings, decks, pools, fences, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices;
- c. Any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the Planning Board adopted pursuant to N.J.S.A. 40:55D-1 et seq.

**SKETCH PLAT**

The sketch map of a site plan or subdivision of sufficient accuracy to be used for the purpose of discussion and classification, meeting the requirements of this chapter.

**SNIPE SIGN**

A sign which is tacked, nailed, posted, pasted, glued, painted or otherwise applied or attached to trees or other natural features, poles, stakes, fences, vehicles, trailers or to other objects with the message appearing thereon not applicable to the present use of the premises or structures upon which such sign is located.

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**STEP (STAIRS)**

A structure to provide access to the first floor level of a dwelling or deck or stair platform.

**STOOP**

An open area attached to or part of the entrance to a building which may or may not include steps.

**STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A cellar shall not be considered a story.

**STREET**

Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which:

- a. Is an existing State, County or municipal roadway; or
- b. Is shown upon a plat heretofore approved pursuant to law; or
- c. Is approved by official action as provided by N.J.S.A. 40:55D-1 et seq.; or
- d. Is shown on a plat duly filed and recorded in the Office of the County Recording Officer prior to the formation of a Planning Board and the grant to such Board as well as a grant of power to such Board for the purpose of reviewing plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

**STREET LINE**

The line determining the limit between the highway rights of the public and adjoining private property.

**STRUCTURE**

A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

**SUBDIVISION**

The division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter, if no new streets are created:

- a. Divisions of property by testamentary or intestate provisions;
- b. Divisions of property upon court order, including but not limited to judgments of foreclosure;
- c. Consolidation of existing lots by deed or other recorded instrument; and
- d. Conveyance of one (1) or more adjoining lots, tracts or parcels of land, owned by the same person or persons, and all of which are found and certified by the Zoning Officer

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to conform to the requirements of the Borough development regulations and are shown and designated as separate lots, tracts or parcels on the tax map of the Borough.

**SURFACE WATER MANAGEMENT**

Structural and nonstructural control of surface water runoff and nonpoint pollution.

**SWIMMING POOL**

A structure erected on a property as an accessory to a residential building on the same lot therewith, and providing recreational facilities for swimming or wading for the use of the persons residing on the premises and their non-paying guests.

**SYNTHETIC SUBSTITUTES FOR NATURAL VEGETATION**

Any man-made surface, product, material or combination thereof produced and used as an artificial substitute for permanent ground cover.

**TENT**

A collapsible shelter of fabric, flexible sheeting or film, stretched and supported by poles and/or ropes or cables; used as a temporary building.

**TOTAL IMPERVIOUS COVERAGE**

See Impervious Coverage, Total.

**USE**

The specific purpose for which a parcel of land or a building or a portion of a building is designed, arranged, intended, occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**VARIANCE**

Permission to depart from the literal requirements of this section.

**VERTICAL BUILDING ENVELOPE**

The distance between the finished first floor level to the roof ridge line.

**WALKWAY**

A paved (whether by pavers, concrete, stone or other paving materials) or wooden structure that is no more than five (5) feet wide and is used for pedestrian access.

**WIDOW'S WALK**

A railed observation platform atop a house.

**WIRELESS TELECOMMUNICATIONS FACILITY**

A wireless communications facility or "cell site" consisting of radio antennae and related equipment for the purpose of providing service to wireless communications customers.

**YARD**

An open space, as may be required by this chapter, on the same lot with a building, or a group of buildings, erected thereon, which lies between the building or group of buildings

and the nearest lot line, and is unoccupied and unobstructed from the ground upward, except as herein permitted.

**YARD, FRONT**

A yard extending across the full width of the lot and lying between the street line, dune reference line/seawall line or bulkhead line (as defined herein), as applicable, of the lot in question and the nearest wall or part of the building. The depth of the front yards shall be measured at right angles to the applicable street line, dune reference line/seawall line or bulkhead line as the case may be. The minimum front yard depth of all lots abutting the Atlantic Ocean shall be sixty (60) feet westwardly from that line designated dune reference line/seawall line on the Tax Maps of the Borough. In the case of all lots abutting on Barnegat Bay, or on the north and south lagoons, the front yard shall be the area between any building thereon and the bulkhead. In those cases where there is an existing bulkhead on lots adjacent to a property without a bulkhead, the bulkhead line shall be construed as a line in line with the adjacent existing bulkheads. In the case of all other lots, the front yard shall be the area between any building thereon and the street line. For corner lots, the property owner may choose which yard abutting a street shall be considered the front yard; except if a lot abuts Route 35 and either East Avenue, Barnegat Lane, Bay Avenue or Runyon Lane, the front yard of such lot shall be the area between any building on the lot and the Borough Street.

**YARD, REAR**

A yard extending the full width of the lot between the extreme rear line of the principal building and the rear lot line.

**YARD, SIDE**

An open unoccupied space between the side line of the lot and the nearest wall of the building. The width of a side yard shall be measured perpendicular to the side line of the lot. In cases where the lot abuts on either the Atlantic Ocean, Barnegat Bay or the north and south lagoons, and a street which runs generally east and west, the side yard shall be the area between any building and such street.

**ZONING OFFICER**

The duly appointed Administrative Officer of the Borough of Mantoloking.

**ZONING PERMIT**

A document signed by the Zoning Officer which:

- a. Is required by chapter as a condition precedent of the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and
- b. Acknowledges that such use, structure or building complies with the provisions of this chapter or is a duly authorized variance.

**ARTICLE 2. GENERAL PROVISIONS**

§ 30-3. GENERAL PROVISIONS.

A. There shall be no more than one principal building or use per lot.

B. Every structure used for dwelling or business purposes shall be built upon a lot with frontage on a public street, or in the case of ocean, bay front or lagoon lots, shall have a rear yard abutting a public street.

C. No building shall be erected, no existing building shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area and building location regulations hereinafter designated for the zone in which such building or open space is located.

D. No lot, in any zone, shall be used, nor shall any structure be erected, altered or occupied, for any purpose except as indicated in each zone under "permitted use" and "accessory use."

E. Dormers in Structures with Attics; Balconies.

1. The ridge of a dormer must be horizontal and shall not exceed the ridge or roof line of the sloping roof in which it is situated. The dormer above the second habitable story shall not extend beyond the ridge of the roof eave. The aggregate width of dormers above the second habitable floor shall not exceed one-third of the width at the roof ridge line of the sloping roof in which they or it are situated.

2. Balconies or decks shall not be permitted above the second story, except that balconies shall be permitted above the second story on residences constructed upon lots which front upon the Atlantic Ocean or Barnegat Bay (excluding North and South Lagoon). The third story balconies shall be constructed only on the front of such residences, where permitted.

3. Widow's walks are permitted, provided they do not exceed the permitted total height of the structure.

F. Decks

1. A deck permit is required prior to the construction of any Deck within the Borough.

a. A deck permit application requires a property survey map similar;

b. A Deck permit shall not be granted unless the owner submits an as-built plan, prepared by a professional land surveyor licensed in the State of New Jersey, to verify that the approved deck was constructed in accordance with the approved deck permit, and the as-built plan shall provide an updated zoning schedule to demonstrate compliance with all applicable bulk standards for coverage.

2. Decks shall be a permitted structure in the residential or business zones

3 Decks greater than eight (8) inches above existing grade shall be included in lot coverage calculation. No grading is permitted to raise the level of a deck. In the event the land is disturbed prior to determination of existing grade, the Borough Engineer shall determine the existing grade based on available topographic mapping of the area and other site features.

4. Decks of any height shall be permitted only within the building envelope unless the decks surround a swimming pool and then shall meet the setback requirements for an accessory structure. Decks which are less than eight (8) inches above existing grade are permitted in the front yard of waterfront lots.

## G. Swimming Pools.

1. The top of the side walls of a finished pool shall not be higher than twelve (12) inches above the existing, preconstruction grade or the first floor elevation, whichever is lower. Existing grade shall be determined by the average preconstruction ground elevations of at least six (6) points spaced equally apart from each other around the perimeter of the pool. If, due to differences in preconstruction ground elevation, any portion of the pool shall be constructed with an elevation greater than twelve (12) inches above grade, that portion or part so elevated or of any associated structure proximate to or abutting the pool shall be screened by suitable planting of an elevation at least as high as the top of the pool side walls, from the view afforded from lots on either side and from the abutting streets.

2. No swimming pool exterior wall, below ground, shall be placed closer than five (5) feet from any existing tie-back anchor for a bulkhead. The distance between the swimming pool and the tie-back anchor shall be measured from the exterior of the pool wall below ground to the actual location of the proposed or existing tie-back anchor.

### 3. Application.

a. Application for a pool permit requires the submission of the required fee and a property survey map similar in all respects to that described in subsection **30-5.4**.

b. An application for a swimming pool permit shall include written justification of the proposed location together with a report, signed and sealed, from a New Jersey licensed professional engineer, with supporting calculations and drawings substantiating that the proposed swimming pool installation will not adversely affect the integrity of the bulkhead or its anchoring system. The report shall be subject to the review and approval of the Zoning Officer and Borough Engineer.

c. Upon substantial completion, the applicant shall furnish as-built plans of the installed swimming pool indicating its location on the property and its relation to the bulkhead, tie-back anchors, buildings, etc.

4. Each swimming pool shall be surrounded by a suitable fence, four (4) feet in height, with a self-latching gate. A fence shall not be required adjacent to the side of a pool facing a bulkhead or bulkhead reference line, or where the pool is adjacent to the house. The location of the fence shall not violate any other provisions of this chapter. See subsection 30-6.13.

5. All pools shall be constructed within the applicable accessory structure setbacks, with the exception of Bayfront or lagoon lots, where pools may be constructed not less than eighteen (18) feet from the mean high water line or bulkhead line.

6. The pool pump house shall be sound insulated and shall not be considered an accessory structure if it is less than fifty (50 S.F.) square feet. Pool equipment – heaters, pool pumphouse, etc. – shall not be placed in the setback areas. Pool pumps shall not exceed the noise levels permitted by the Borough's noise regulations.

7. A swimming pool with a surrounding deck shall be treated as a single accessory structure.

H. Satellite Dish Antennas. All satellite dish antennas shall have a maximum diameter of one (1) meter (39.37 inches).

I. Tents.

1. Tents may be erected in residential zones for use only as a temporary building. They may not be utilized for habitation.
2. 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.
3. 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.
4. All tents must be constructed of approved fire retardant fabric or material and so marked. Gasoline, gas, charcoal or other cooking devices or any other unapproved open flame shall not be permitted inside or located within twenty (20) feet of any tent.
5. Any tent in excess of nine hundred (900) square feet or with a side dimension greater than thirty (30) lineal feet shall not be permitted unless the applicant also obtains proper permits from the Fire Inspector, in accordance with applicable regulations.
6. The municipal tent permit shall be conditioned upon the applicant's receipt of, and compliance with, all of the terms and conditions of any additional permits which may be required for the proposed tent.
7. A tent permit fee must accompany the application. See Appendix C. It shall be the applicant's responsibility to apply for and to obtain any ancillary permits for any proposed tent erection and, in all events, to provide all required information. No action or processing of an application for a tent will be commenced until the application is complete.

J. First Floor Elevations. For all new or substantially improved residential construction, the first floor elevation or the elevation of the bottom of the lowest horizontal structural member for velocity flood zones and Coastal A flood zones shall be built a minimum of three (3) feet 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).

K. Hardscaping.

1. Synthetic substitutes for natural vegetation shall not be considered a permissible hardscape or softscape material for utilization in any yard area in the Borough of Mantoloking.
2. 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 Zoning Officer for approval.

3. Accompanying the application for a hardscape permit shall be a property survey map, which identifies all proposed hardscaping and includes lot coverages and total impervious lot coverage calculations.
4. An as-built plan, prepared by a professional land surveyor licensed in the State of New Jersey, shall be submitted to the Zoning Officer to verify that the approved hardscaping was constructed in accordance with the approved hardscape permit, and the as-built plan shall provide an updated zoning schedule to demonstrate compliance with all applicable bulk standards for coverage.

#### L. Yard Area.

1. Every part of a required yard shall be open and unobstructed from its lowest level, except for the ordinary projection of sills, chimneys, flues, and eaves, and except for fences, at-grade walkways with a maximum width of three (3) feet, vegetation or landscaping; provided, however, that none of the building projections shall project into the minimum required yard areas by more than twelve (12) inches.
2. In Zones R-1, R-2a, R-2b, R-4A, R-RB, R-3A, R-3B, R-3C, R-4A and R-4B, the extension of open, unenclosed and unroofed entrance porches and stoops which do not rise above the ground floor level may extend into any yard setback, provided that the total area of such entrance porches or stoops which extend into such yards does not exceed one hundred fifty (150) square feet for the front and back yards and the extension into one (1) side yard cannot exceed one hundred (100) square feet.
3. In all other zones, the maximum extension is one hundred (100) square feet for the front, back and one (1) side yard.
4. In all cases the extension must be located at least five (5) feet from any property line.
5. Handicap entrances hereafter constructed upon buildings existing as of the adoption of this chapter may be excepted from a strict application of this entrance porch limitation at the discretion of the Zoning Officer and in conformity with all applicable laws and regulations, including but not limited to the Americans with Disabilities Act (ADA).
6. No yard or other open space on one (1) lot shall be considered as providing a yard or open space for a building on any other lot.

#### M. Setbacks

1. No structure shall be placed in the area between the setback line as hereinafter established and either the dune reference line/seawall line or bulkhead line, or mean high-water line, where no bulkhead line has been established or the street line, as the case may be, with the exception of dune platforms, walkways or pathways, as permitted by Chapter 11, Protection of Beaches and Dunes.

#### N. Accessory Use and Accessory Structures.

1. Accessory Use.
  - a. No accessory use or uses shall occupy a lot area in excess of fifty (50%) percent of the floor area of a dwelling on the lot or in excess of the floor area of the first floor of a dwelling having more than one (1) floor. A private garage, to be deemed an accessory use, shall not exceed fifteen (15) feet in height on any lot unless it

is an integral part of the house, in which case it may be two (2) stories in height. Space above a garage which is an integral part of the house may be used for habitation.

b. The maintenance of one (1) commercial vehicle with a load capacity not to exceed two (2) tons is a permitted accessory use; it must be maintained in a private garage and shall not be visible from outside the garage.

2. Accessory Structures.

a. No accessory structure shall be used in whole or in part as living or sleeping or housekeeping quarters.

b. Detached storage sheds or other structures used primarily for the purpose of storage shall be permitted in all zones except the Business Zone.

c. There may be no more than two (2) roofed accessory buildings on a given lot or on combined lots.

d. Accessory structures, except for integral garages as described above, shall not exceed fifteen (15) feet in height above the existing surrounding grade at the highest point along the base of the accessory structure. Cupulas shall meet the requirements for building heights and are not exempt.

e. An attached garage may contain sanitary plumbing that conforms to the Flood Damage Prevention Code.

f. A detached accessory structure may not include sanitary plumbing facilities, i.e., toilets or urinals. It may contain sinks and/or showers that conform to the Flood Damage Prevention Code.

g. On-grade air-conditioning or HVAC units shall be located within the building envelope and must be landscaped or screened with lattice, open board fence, shrubbery and/or plantings, which still allows for the circulation of air and dispersal of fumes, as to lessen the visual impact of the unit(s).

1. Mechanical and utility platforms servicing the building, including generator platforms, shall be located within the building envelope, not more than six inches from the principal structure

2. Roof-mounted equipment on an accessory or principal structure must be recessed into the rooflines to entirely screen the units and shall be located within the principal building envelope. The open end of the recessed roof platform at the roofline for the mechanical equipment shall be adequately screened with lattice, a parapet wall, or similar architectural elements along the roof line, which will still allow for the circulation of air and dispersal of any fumes, to lessen the visual impact and screen the roof-mounted unit(s). No part or section of the platforms for roof-mounted mechanical equipment shall extend above or beyond the structure's roofline.

h. A boat lift and/or davit may be installed, maintained and utilized as a permitted accessory structure on developed waterfront lots except for developed lots with frontage on the North and South lagoons where only a single davit for personal watercraft may be installed, maintained and utilized.

i. Free standing antennas which at full elevation do not exceed a total height, including all support structures, of sixty (60) feet above grade, utilized in conjunction with federally licensed amateur radio equipment, are permitted on any residential lot. Antennas shall be monopole, self-supporting, without guy wires, and may be fixed or telescoping. Telescoping installations shall be

maintained in a housed or lowered configuration except when in actual use. Antennas shall not be erected in any yard area. Antenna foundations or base support structures shall be constructed in accordance with sound engineering practice. No person shall construct or install an antenna of a total height greater than twenty-five (25) feet without having obtained an antenna zoning permit from the Zoning Officer. The permit application shall include such detail, including engineering certifications, as shall be prescribed by the Zoning Officer. The certificate shall confirm that the design, antenna and foundation are in compliance with applicable standards. The owner shall also obtain a building permit prior to the initiation of construction or installation of any antenna over twenty-five (25) feet in total height.

j. Accessory buildings in "V" zone areas as defined on the Borough's Flood Insurance Rate Map (FIRM), with the exception of garages, may be constructed below the Base Flood Elevation provided that they meet FEMA Technical Bulletin 5 (2020), or the latest amended or revised version. Garages shall also be defined as accessory structures and when constructed in a "V" zone, shall comply with guidelines established in FEMA Technical Bulletin 9-08, or the latest amended or revised version.

#### O. Building Height and Roofs.

1. Building height shall be measured from the elevation of the crown of the road at the center of the lot in question. The building height of corner lots shall be measured from the elevation of the lower of the crowns of the intersecting roads. The building height of lots with front and rear yards abutting streets shall be measured from the elevation of the lower of the crowns of the two (2) streets.

2. Building height shall be limited to the maximums set forth in Appendix B, Bulk Standards.

3. No structure shall be erected on lots where the finished grade is lower than the crown of the road abutting the lot.

4. The roof structure shall consist of rafters with a uniform slope and which bear directly on the ceiling joists of the story below the roof, with the exception of gambrel roofs, which shall be permitted. The pitch of the structure's principal roof shall be not less than six on twelve (6 on 12).

5. Cupulas shall meet the requirements for building heights and are not exempt.

#### P. Fences.

1. In all residential zones, fences and walls may be erected or maintained along or adjacent to a lot line to a height not more than four (4) feet in the required side, rear and front yards, as follows:

**a.** Where rear lot lines of residential lots are abutting each other, the rear line fencing shall not exceed six (6) feet in height.

**b.** A fence not exceeding six (6) feet in height may be erected upon the easterly boundary of lots abutting the westerly boundary of Route 35 between Herbert Street and Lyman Street.

**c.** Six (6) foot fences may require appropriate landscape screening as determined by the Borough Zoning Officer or the Planning Board. Fence height measurement shall not include finials or gate posts. Finials shall not be higher than six (6)

inches over permitted fence height. Gate posts shall not be higher than eighteen (18) inches over permitted fence height. A maximum of two (2) gate posts is permitted at each entry. Lights on gate posts (one (1) on each post) are permitted and the dimension of the light shall be included in the height measurement. Gate posts may be used only at a gated location.

2. Entry or garden archways shall be permitted. Entry or garden archways shall not exceed eight (8) feet in height. Entry archways shall be permitted in setback areas. Garden archways may be permitted within the building envelope.
3. Fences not within the setback, i.e., fences within the building envelope, shall be limited to a maximum height of six (6) feet.
4. Prior to the construction or installation of any fence within the Borough, an application for a fence permit, with the required fee, shall be submitted to the Zoning Officer. See Appendix C of this chapter.
5. Fence height will be measured from existing pre-construction grade. No grading will be permitted to raise the level of the fence.
6. No fence shall be erected of barbed wire, razor wire, or topped with metal spikes, or any other sharp material or design feature.
7. The finished side of all fences shall be constructed to face toward the adjacent property.
8. The application shall provide the proposed location of the fence, its dimensions, the material of which it is to be constructed and any other information requested by the Zoning Officer in order to allow him or her to make an informed decision as to whether the proposed fence is in conformity with this chapter.
9. Upon review of the application, the Zoning Officer shall within ten (10) days either issue a permit for construction or installation of such fence or deny the application with written reasons provided therefor. If the Zoning Officer fails to act upon the application as required herein, then the permit shall be deemed to have been issued by the Zoning Officer's inaction.
10. No owner shall replace any existing fence without first obtaining a fence permit from the Zoning Officer. Prior to permit closeout, a final field inspection will be performed by the Zoning Officer to verify that the new fencing was constructed in accordance with the approved fence permit.
11. No owner may replace more than 16 linear feet of an existing fence in a consecutive 12 month period unless the fence's height complies with the provisions of this subsection. An owner may replace 16 linear feet or less of an existing fence in a consecutive 12 month period at the same height of the existing fence, even if the height does not comply with the provisions of this subsection.

#### Q. Flagpoles

1. Flagpoles may be installed on any property within the Borough.
2. Flagpoles are not considered an accessory structure under the Land Use Regulations of the Borough of Mantoloking.
3. Flagpoles shall not exceed the allowable maximum height of the primary structure for the subject zone district as measured at the highest roof ridge line.
4. A flagpole shall not be permitted within ten (10) feet of any property line.
5. Prior to installation of a flagpole within the Borough, an application for a zoning permit, with the required fee, shall be submitted to the Zoning Officer.
6. Flag poles on vacant land may not exceed 35 feet in height.

R. Landscaping

1. All applications for development, including single-family residential construction, shall incorporate plant species which are native to New Jersey and indigenous to the barrier island and coastal areas into the proposed landscaping plan.

2. Landscaping plans for all development shall incorporate a minimum of 30% of the total proposed planting counts as native New Jersey flora indigenous to the barrier island and coastal areas.

3. The below list are acceptable flora for indigenous plantings, but the below list is not the only potential plantings and is not intended to be a fully comprehensive list that would limit other potential indigenous plantings to be implemented into a landscape design. Applicants can provide information and plant species in addition to the below list which would be subject to the review and approval by the Township Engineer for other acceptable indigenous plants:

<b>Groundcover and Perennial Flowers</b>
Common Milkweed (Asclepias Syriaca)
Butterfly Weed (Asclepias Tuberosa)
Swamp Sunflower (Helianthus Angustifolius)
Blackeyed Susan (Rudbeckia Hirta)
Beach Pea (Lathyrus Japonicus)
Seaside Goldenrod (Solidago Sempervirens)
<b>Grasses</b>
American Beachgrass (Ammophila Breviligulata)
Saltmeadow Cordgrass (Spartina Patens)
Purple Lovegrass (Eragrostis Spectabilis)
Common Rush (Juncus Effusus)
<b>Shrubs</b>
Inkberry (Ilex Glabra)
Groundsel Bush (Baccharis Halimifolia)

Beach Plum (Prunus Maritima)
Arrowwood (Viburnum Dentatum)
Swamp Azalea (Rhododendron Viscosum)
<b>Trees</b>
American Holly (Ilex Opaca)
Eastern Red Cedar (Juniperus Virginiana)
Pitch Pine (Pinus Rigida)
Scrub Oak (Quercus Ilicifolia)
Black Willow (Salix Nigra)

**ARTICLE 3. ZONING PROVISIONS.**

§ 30-4. Establishment of Zones.

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

B. Location of Zoning Districts. The location of the zoning districts shall be as set forth on a Zoning Map attached as Appendix A to this chapter.

§ 30-5 Residential Zones.

A. In all residential zones, the following use regulations shall apply:

1. Principal Permitted Use. Single-family detached dwelling; minimum floor area one thousand five hundred (1,500) square feet.
2. Accessory Use. Accessory uses customary or incident to the residential use.
3. Prohibited Use. All other uses not specifically set forth herein are prohibited in residential zones. See Subsection 30-8, Nonconforming Uses.
4. Conditional Uses.
  - a. Reserved.

B. Bulk Requirements. The bulk requirements for each individual zone district shall be as set forth in Appendix B included as an attachment to this chapter. See also Subsections 30-6.7-30-6.10.

§ 30-6. Business Zone.

A. Permitted Use.

- (a) Single-family dwelling;
- (b) Two-family dwelling;
- (c) Retail sale of goods and the provisions of services for local needs and local consumption which shall include the following only:
  - (1) Sale of Goods:
    - i. Groceries;
    - ii. Meat and poultry;
    - iii. Baked goods;
    - iv. Drugs and pharmaceutical;
    - v. Flowers;
    - vi. Confectioneries; or

- vii. Stationery supplies, tobacco and periodicals.
- viii. Or like businesses

(2) Services:

- i. Barber and beauty shop;
- ii. Shoe repairing; or
- iii. Professional offices of recognized professions.
- iv. Or like businesses

B. Accessory Use. Combined residential use with professional services.

C. Conditional Uses.

- 1. Reserved

D. Bulk Requirements. The bulk requirements for the Business zone shall be as set forth in Appendix B included as an attachment to this chapter. See also Subsection **30-6.7—30-6.10**.

§ 30-7. Open Space Zone.

- A. A Lots in the Open Space Zone shall be preserved from development. No buildings or structures may be constructed in the Open Space Zone.
- B. 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 chapter. 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 the lot area.

§ 30-8. Nonconforming Uses.

- A. Continuance. Except as otherwise provided in this chapter, the lawful use of the land or a structure existing at the date of the adoption of this chapter may be continued although such use or structure does not conform to the regulations specified by this chapter for the zone in which such land or structure is located; provided, however, that:
  - 1. A nonconforming lot shall not be further reduced in size.
  - 2. A nonconforming structure shall not be enlarged, extended, or increased, horizontally or vertically, unless such enlargement, extension or increase is conforming.
  - 3. A conforming enlargement, extension or increase to a nonconforming structure shall not require the approval of the Planning Board.
  - 4. A nonconforming use may not be expanded.
- B. Abandonment. A nonconforming use shall be presumed to be abandoned when there exists both (1) an intention to abandon the nonconforming use; and (2) some overt act or failure to act indicating that the owner does not claim or retain an interest in the nonconforming use.
- C. Restoration. If any nonconforming structure is destroyed by reason of windstorm, fire, explosion, act of God or intentional destruction, to an extent of more than partial destruction, then such destruction shall be deemed complete destruction, and the

structure may not be rebuilt, restored or repaired, except in conformity with the regulations of this chapter. Nothing in this chapter shall prevent the strengthening or restoring of any wall, floor or roof, which has been declared unsafe by the Construction Official, to a safe condition.

- D. Reversion. A nonconforming use shall not, if once changed into a conforming use, revert to a nonconforming use.

§ 30-9. Consolidation of Certain Lots—Bulk Standards.

If two (2) or more conforming oceanfront lots located south of Lyman Street are consolidated, then the following bulk standards shall apply:

- A. Maximum lot coverage: sixteen (16%) percent.

- B. Maximum building height:

- 1. If two (2) conforming lots are consolidated: fifty-five (55) feet over crown of road.

- 2. If three (3) or more conforming lots are consolidated and if the finished first floor is twenty-five (25) feet or higher over the crown of the road, the roof ridges, for not more than sixty percent (60%) of their entire length shall not exceed the height of fifty-eight (58) feet over crown of road. The remainder of the structure shall not exceed fifty-five (55) feet over crown of road.

- In the event that the finished first floor is less than twenty-five (25) feet, over the crown of the road, the building height shall not exceed fifty-five (55) feet over the crown of road.

- C. Minimum side yard setback:

- 1. For one side: twenty (20) feet.

- 2. For both side yards: Thirty-five percent (35%) of the lot frontage.

- D. Minimum rear yard setback: Two (2) times the required rear yard setback in the zone.

- E. Buffer: A buffer area at least fifteen (15) feet in depth and landscaped with evergreen trees (minimum height six (6) feet) and other native species shall be provided along the property line along the street line to minimize the visibility of the structures from the road.

h|s|h|c

Mandell, Strohm,  
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ATTORNEYS AT LAW

Water Street  
Lever, NJ 08753

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2.905.6555

§ 30-10. CONDITIONAL USES

- A. Reserved

§ 30-11. Prohibited Uses.

- A. The Planning Board shall not grant any variance which would permit a use in any zone if the use is designated in this chapter as "prohibited."

1. Cannabis Establishments. All classes of cannabis establishments, including cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, cannabis retailers and cannabis delivery services are hereby prohibited from operating in the Borough of Mantoloking. This prohibition shall not apply to the delivery of cannabis items and supplies by a licensed cannabis delivery service located in another municipality.

2. The use and/or occupancy for the purpose of habitation of any boat, mobile home, camper, trailer, storage trailer or any other vehicle or structure, whether it is self-propelled or otherwise used or intended to be used as a conveyance, and so designed or constructed to permit its occupancy for the purpose of habitation, at any time within this Borough, whether the same is parked, placed, maintained or stored on public or private property within the Borough, and whether or not it is parked or placed in a garage or other structure, is prohibited.

3. A helistop, helipad, landing strip or similar aeronautical facility.

4. Wind powered generating devices which cause sound audible beyond the lot boundaries are prohibited either as a principal use or an accessory use, or as part of, or attached to the dwelling.

5. Any use which emits odor, smoke, dust, light, noise or which is detrimental to the health, safety, morals or general welfare of the neighborhood shall be prohibited.

#### § 30-12. Grandfather Provisions.

A. Except as otherwise provided in this chapter, any lot which conformed to the bulk requirements (i.e., lot area, width and depth) of any Land Use Ordinance in effect prior to the adoption of this chapter, or was validly pre-existing, may be used as a lot for any purpose permitted in the zone without the necessity of variance relief, if (1) at the time of and since the adoption of this chapter neither the lot owner nor any successor owners owned adjoining property which, if combined with the subject lot, would allow the combined lots to conform with the bulk requirements of this chapter, and (2) the lot otherwise conforms with all requirements of its zone.

B. "Landlocked" lots existing at the time of adoption of this chapter, i.e., lots which lack street frontage and require the use of an easement for ingress and egress to the lot, shall not be made nonconforming by the adoption of this chapter due to their failure to conform to the frontage requirements of this chapter.

C. A structure which has an existing finished floor elevation which is below the minimum or above the maximum finished floor elevation as set out in Schedule B at the time of adoption of Ordinance 617 (April 8, 2013), or as further amended, shall be acknowledged as a conforming structure. That conforming designation shall apply only to the minimum/maximum first floor elevation requirements and not to any other preexisting nonconformities.

### **ARTICLE IV ADMINISTRATIVE OFFICER**

#### § 30-13. Zoning Officer.

- A. Establishment. There is hereby created and established in the Borough the position of Zoning Officer. The Zoning Officer shall exercise all of the powers and duties of the Administrative Officer referred to in N.J.S.A. 40:55D-1 et seq. and of the Zoning Officer referred to in all Borough ordinances and all further powers and duties as provided in this chapter.
- B. Enforcement. The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the zoning officer, who shall have such powers as are conferred upon him by this chapter and as reasonably may be implied. It shall be the duty of the zoning officer to cause any building, plans or premises to be inspected or examined and to order, in writing, the remedying of any conditions found to exist in violation of this chapter, and he shall have the right to enter any commercial buildings or premises during the daytime, or other normal business hours of the premises during which the business is open to the public, in the course of his duties.
- C. Function and Duties.
1. All requests, inquiries and applications pertaining to land use and development, including but not limited to zoning permits, development permits, variances, subdivisions and general information, shall be referred to the Zoning Officer, prior to action being taken by any other Borough official, employee or Board.
  2. Upon receipt of an application for a zoning permit, the Zoning Officer shall either:
    - i. issue a zoning permit and refer the applicant to the Construction Official for the issuance of a building permit; or,
    - ii. if appropriate, deny a zoning permit and provide the applicant with a copy of the denial and/or the appropriate application forms and instructions for application to the Planning Board for a development permit.
  3. The Zoning Officer shall issue or deny a zoning permit within ten (10) business days of receipt of a request for the permit. If the Zoning Officer fails to grant or deny a zoning permit within this period, the failure shall be deemed to constitute approval of the application for the zoning permit.
  4. The Zoning Officer shall receive for filing all applications for development permits, supporting documents and required fees, and if the application is complete and correct as to form, shall deem the application complete and shall refer it to the Planning Board. If the application is incomplete and/or incorrect as to form, the Zoning Officer shall notify the applicant in writing to that effect within forty-five (45) days.
  5. When notice to property owners is required, the Zoning Officer shall refer the applicant to the Tax Assessor's Office for the Tax Assessor's preparation of a list of property owners to be served with notice by the applicant.
  6. The Zoning Officer shall retain one (1) copy of each application for a development permit and supporting documents, shall transmit one (1) copy to the Borough Engineer, Construction Official, Fire Subcode Official, Fire Chief and Police Department, respectively, and shall transmit the balance of the application forms and documents to the Secretary of the Planning Board.
  7. The Zoning Officer shall perform any other function or duty incidental to the foregoing; provided, however, that all action taken by the Zoning Officer shall be in compliance with the provisions of N.J.S.A. 40:55D-1 et seq., as amended and supplemented, and all other pertinent ordinances and amendments thereto.

8. When it is ascertained that a violation of any ordinance pertaining to land use exists, the Zoning Officer shall serve a violation notice in writing upon the property owner. The Zoning Officer shall provide one (1) copy of the violation notice to the Borough Clerk. The Zoning Officer may file a complaint in the Municipal Court if the violation has not been abated within a reasonable time.
9. Any Borough official who issues or serves a violation notice pertaining to land use shall promptly furnish to the Zoning Officer one (1) copy of the violation notice as well as one (1) copy of any disposition of the violation notice.
10. The Borough Tax Assessor shall promptly furnish to the Zoning Officer one (1) copy of each real property transfer.
11. It shall be the duty of the Zoning Officer to keep a record of all applications for, and of all permits and certificates issued, with a notation of all special conditions involved. He or she shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of the Zoning Office, and shall be available for the use of Mayor and Council and all members of the public.
12. Deputy Zoning Officer. A Deputy Zoning Officer may be appointed by the Mayor to serve at his or her pleasure. The Deputy shall act in the absence of the Zoning Officer during any period of absence greater than three (3) business days, and whenever the Zoning Officer is unavailable due to illness or emergent circumstances. The Deputy shall have all the powers and duties of the office.

**§ 30-14. ZONING PERMITS**

A. A zoning permit is required for the construction, erection or alteration of any structure, or part of a structure, or use of a structure or land for purposes other than those permitted by this chapter. All requests for zoning permits shall be made in writing by the owner, or the authorized agent, and shall include a statement of the use, or intended use, of the building, or structure, or land, and shall be accompanied by a plan of the plot showing thereon the exact size, shape and location of all proposed structures and all existing structures and such other information (including a site plan or elements of a site plan) as may be necessary to provide for enforcement of this chapter and as may be reasonably required by the Zoning Officer.

B. Submission Requirements for Zoning Permits. An applications for a zoning permit shall be submitted in writing to the Zoning Officer in triplicate and shall include:

1. A statement of the use, or intended use, of the building, or structure, or land;
2. A plan of the plot showing thereon the exact size, shape and location of all proposed structures and all existing structures and such other information (including a site plan or elements of a site plan) as may be necessary to provide for enforcement of this chapter and as may be reasonably required by the Zoning Officer.
3. At least three (3) copies of the required plat maps and supporting attachments, exhibits and other information.
4. The required fee
5. A construction parking plan must be submitted with each zoning permit application. The Zoning Officer may reject any plan which does not, in the reasonable exercise of his discretion, provide for adequate off-street parking for

the proposed project. The applicant shall represent that they have obtained permission from all involved property owners or occupants of premises which will be utilized for off-street parking.

C. Initial Review of Application by Zoning Officer.

1. If the Zoning Officer has legal authority to approve the application and determines that the application conforms to the requirements of this chapter and all applicable law, the Zoning Officer shall issue a zoning permit to the applicant. The applicant may then request that the Construction Official issue a building permit. Prior to construction, the applicant must obtain both a zoning permit and a building permit.

2. If the Zoning Officer reviews the application and determines that it should be denied, the Zoning Officer shall issue a written denial of the application and shall advise the applicant of the applicant's right to appeal the denial by requesting the Planning Board to issue a development permit. Upon issuance of a development permit by the Planning Board, the applicant may request that the Construction Official issue a building permit.

D. Specific Zoning Permit Provisions

1. Properties Contiguous with NJ Route 35 or Barnegat Lane. Upon filing an application for a zoning permit for a project upon any property which is contiguous with N.J. Route 35 or Barnegat Lane, the applicant shall also simultaneously present to the Zoning Officer a proposed construction parking plan which shall show the location of off-street parking for all vehicles which will be utilized by or associated with the work of the project. The number of off-street parking spaces shall be sufficient to ensure that parking regulations will not be violated by the presence of vehicles utilized or associated with the project.

E. Expiration of Zoning Permits

A. All zoning permits issued by the Zoning 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:

1. One (1) year after date of issuance of the permit;
2. The adoption of an ordinance amendment which renders the permit noncompliant with the provisions of the ordinance; or
3. Upon the amendment of the plans on which the permit was based and issued, where the amendments affect the zoning of the property.

B. Exception:

1. Temporary facilities shall be valid for six months; a temporary facilities permit may be extended for an additional 6 month period.
2. Tent permits expire five days following the erection of the tent.

§ 30-15. Applications for Development Permits.

- A. Application shall first be made to the Zoning Officer by any person wishing to undertake any of the following:
1. Subdivision of land;
  2. Construction of a new building or structure;
  3. Addition to, or structural alteration, of any existing structure;
  4. Change of the use of any land or change of use within any building or structure;
  5. Interior alterations which increase the required number of off-street parking spaces;
  6. Construction, addition or alteration of any parking area, fence, signs, lighting, drainage facility or any other site improvement above and/or below ground level;
  7. Alteration of the existing grade of any parcel of land;
  8. Erection of a tent pursuant to the provisions of this chapter;
  9. The construction or alteration of any public facility, structure or building for which referral to the Planning Board for review and recommendation is required by N.J.S.A. 40:55D-31; or
  10. Change in lot size in conjunction with or subsequent to any condemnation or taking proceeding.

B. The Zoning Officer shall advise the applicant which of the following approvals is required:

1. Site plan;
2. Subdivision; and/or
3. Variance or design waiver.

C. Applications for construction, expansion or alteration of single-family dwellings in a residential zone shall require submission of a site plan; however, the plat requirements of the site plan may be waived or modified in the discretion of the Zoning Officer.

D. Required Submissions for All Construction

1. An as-built location survey of the existing, modified, or newly constructed foundation of a building, signed and sealed by a New Jersey licensed professional land surveyor, shall be submitted for approval by the Zoning Officer, prior to any further construction of the building.
2. The elevation certificate, required under FEMA regulations, shall be submitted as soon as possible following installation of the first floor and related structural members.
3. Promptly upon completion of the structural framing of the highest element of the structure, and prior to application of roof sheathing, the developer shall provide to the Zoning Officer, in form satisfactory to the Zoning Officer, an elevation certificate, prepared and sealed by a New Jersey licensed professional land surveyor, which will demonstrate that the finished structure will not exceed the permitted height.
4. An as-built survey of all buildings, lot improvements, final grading and roof elevations signed and sealed by a New Jersey licensed professional land surveyor, shall be submitted for approval by the Zoning Officer. The as-built survey shall include the location of underground utilities and related

appurtenances evidenced at ground surface, and shall be updated to locate all subsequent installations.

5. In the case of applications which include swimming pools or spas, the developer shall submit to the Zoning Officer an as-built survey at the time the formwork is completed, and prior to actual pouring of concrete or setting of a prefabricated unit. The as-built survey shall locate the pool on the property by reference to property lines, and shall also provide the elevation of the top of the pool.
6. In the case of applications which include decks, the developer shall submit to the Zoning Officer an as-built survey immediately upon completion of the deck. The as-built survey shall locate the deck(s) on the property by reference to property lines, and shall also provide the elevation of the top of the deck from existing grade.
7. All applications for a development permit shall include a Flood Elevation Certificate for all existing buildings on the site.

## ARTICLE V. PLANNING AND ZONING BOARD

### § 30-16 Organization.

In accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., the Borough of Mantoloking, being a Borough with a population of less than fifteen thousand (15,000) people, has instituted a nine (9) member Planning Board to exercise, to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment.

### § 30-17. Planning Board.

- A. Establishment. The Planning Board of the Borough of Mantoloking shall consist of nine (9) members which for convenience in designating the manner of appointment, shall have the four (4) following classes:
    1. Class I – The Mayor of the Borough of Mantoloking, or the Mayor's designee in the absence of the Mayor;
    2. Class II – One of the officials of the municipality other than a member of the Borough Council, to be appointed by the Mayor;
    3. Class III – A member of the Borough Council, to be appointed by it; and
    4. Class IV – Six (6) other citizens of the Borough of Mantoloking, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment except that one (1) member may also hold a seat on the Board of Education.
  5. All members of the Planning Board of the Borough of Mantoloking shall be municipal residents.
- B. Terms.
    1. The term of the member composing Class I shall correspond with his or her official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first.
    2. The term of a Class II or Class IV member who is also a member of the environmental commission shall be for three years or terminate at the

completion of his term of office as a member of the environmental commission, whichever occurs first. The term of a Class IV member who is also a member of the board of adjustment or board of education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The Class IV term of each such member shall be four years.

3. **Alternate Members.** Alternate members of the Planning Board shall be appointed by the Mayor and shall meet the qualifications for Class IV members of nine (9) member Planning Boards. The Mayor may, in the exercise of his or her discretion, appoint up to four (4) alternate members of the Planning Board. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1", "Alternate No. 2", etc. The terms of the alternate members shall be for two (2) years, except that the terms of the alternate members shall be such that the term of not more than one (1) alternate member shall expire in any one (1) year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two (2) years. Alternate members of the Planning Board of the Borough of Mantoloking shall be municipal residents.

C. **Participation of Alternate Members.** Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. Participation of alternate members shall not be deemed to increase the size of the Planning Board.

D. **Conflicts.** No member of the Planning Board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. In the event that the Planning Board shall lack a quorum of members eligible to act upon an application because of either direct or indirect personal or financial interest therein, alternate members of the Planning Board will be called upon according to number.

E. **Vacancies.** If a vacancy of any class shall occur in a manner other than by expiration of term, it shall be filled by appointment for the unexpired term.

F. **Removal.** Any member other than a Class I member, after a public hearing if he or she requests one, may be removed by the Borough Council for cause.

G. **Advisory Committee.** The Mayor may appoint one (1) or more persons as a Citizens' Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required by the Board.

H. **Organization of Planning Board.** The Planning Board shall elect a Chairman and Vice-Chairman from the members of Class IV and shall elect a Secretary who is either a member or alternate member of the Planning Board or a municipal employee designated by it. An alternate member of the Planning Board shall not serve as Chairman or Vice-Chairman of the Planning Board. The Planning Board may employ, or contract for, and fix the compensation of legal counsel (other than the Municipal Attorney), experts, and other staff, including but not limited to a Board Secretary, and services utilizing funds appropriated by the Borough Council for its use. The costs of such counsel, experts and other assistance shall not exceed the amounts appropriated to the Planning Board by the Borough Council, unless reimbursable by an applicant. The

Borough Council shall make provision in its budget and shall appropriate funds for the expenses of the Planning Board.

I. Powers and Duties of the Planning Board. The Planning Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. The Planning Board shall have the following powers and duties:

1. To make and adopt and, from time to time, amend a Master Plan for the physical development of the municipality, including any areas outside its boundaries which, in the Board's judgment, bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28.
2. To administer site plan and land subdivision review in accordance with the provisions of this chapter and N.J.S.A. 40:55D-37 through 40:55D-59.
3. To grant exceptions from certain requirements for subdivision and site plan approval pursuant to N.J.S.A. 40:55D-51.
4. Informal Review. At the request of an applicant, the Planning Board may grant an informal review of a concept plan for a development for which the applicant intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The applicant shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.
5. To consider and report to the Borough Council within thirty-five (35) days after referral to the Board as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26(a) and also to pass upon other matters specifically referred to the Planning Board by the Borough Council pursuant to the provisions of N.J.S.A. 40:55D-26(b).
6. To participate in the preparation and review of programs or plans required by State or Federal law or regulations.
7. To assemble data on a continuing basis as part of a continuing planning process.
8. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Borough Council for the aid and assistance of the Borough Council or for other agencies or officers, including, but not limited to, preparation of a capital improvements program pursuant to N.J.S.A. 40:55D-29.
9. To exercise the powers of a Zoning Board of Adjustment,

J. Meetings.

1. Meetings of the Planning Board shall be scheduled no less often than once a month, and any meeting so scheduled shall be heard as scheduled unless canceled for lack of applications for development to process.
2. Special meetings may be provided for at the call of the Chairman or on the request of any two (2) Board members, which meetings shall be held on notice to the Board's members and to the public in accordance with all applicable legal requirements.
3. No action shall be taken at any meeting without a quorum being present.
4. All actions shall be taken by majority vote of a quorum except as otherwise required by any provision of N.J.S.A. 40:55D-1 et seq.

5. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq. An executive session for the purpose of discussing and studying any matters to come before the Planning Board shall not be deemed a regular or special meeting.

K. Minutes. The Secretary appointed by the Planning Board shall keep minutes of every regular or special meeting which shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney; the action taken by the Board; and the findings, if any, and reasons therefor made by the Board.

L. Hearings.

1. Rules. Unless permitted to waive notice and public hearing by the provisions of this chapter or other applicable law, the Planning Board shall hold a hearing on each application for development submitted for its consideration and shall make rules governing conduct of applicants and others before the Planning Board.
2. Filing of Documents. Any maps and documents for which approval is sought at a hearing shall be on file at the Zoning Office in the Borough Hall and available for public inspection during regular business hours.
3. Oaths. The officer presiding at the hearing or such person as he or she may designate shall have the power to administer oaths and to issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq., shall apply.
4. Testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
5. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
6. Records. The Planning Board shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The Planning Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense. The fee charged shall not exceed the actual cost of preparing the transcript or recording. Transcripts shall be certified in writing by the transcriber to be accurate

M. Notice of Hearings. Notice shall be required for all site plan and subdivision applications. Whenever public notice of a hearing is required on an application for development, the applicant shall give notice thereof at least ten (10) days prior to the date of the hearing in accordance with the following requirements:

1. Public notice of a hearing on an application for development shall be given for all of the following:
  - a) Appeal of the determination of the Zoning Officer;
  - b) Variance;
  - c) Directive for issuance of a building permit; or
  - d) Preliminary or final subdivision plats or site plan approval or extension of such approval or extension of statutory guarantee;

- e) Extension of approvals for five (5) or more years under N.J.S.A. 40:55D-49 and N.J.S.A. 40:55D-52;
  - f) Modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice; or
  - g) Requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which the Planning Board is authorized to pass.
2. Public notice shall be given by publication in the official newspaper of the Borough, if there is one, or in a newspaper of general circulation in the Borough and shall conform with N.J.S.A. 40:55D-11 as to content.
  3. Notice of hearing requiring public notice pursuant to this chapter shall be given by certified mail to the current owners of the tax lot or lots, located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which applicant's land is located.

N. Time Limits for Approvals.

1. Preliminary Site Plan Approval. Upon the submission to the Zoning Officer of a complete application of a site plan which involves ten (10) acres of land or less and ten (10) dwelling units or less, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the applicant. Upon the submission of a complete application for a site plan which involves more than ten (10) acres or more than ten (10) dwelling units, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the applicant. If the Planning Board fails to act within the time periods provided in this subsection, the Planning Board shall be deemed to have granted preliminary approval of the site plan.
2. Preliminary Subdivision Approval. Upon submission of a complete application to the Zoning Officer for a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the applicant. Upon submission of a complete application to the Zoning Officer for a subdivision of more than ten (10) lots, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the applicant. If the Planning Board fails to act within the time periods provided in this subsection, the Planning Board shall be deemed to have granted preliminary approval of the subdivision.
3. Effect of Preliminary Approval.
  - a) Preliminary approval of a subdivision or of a site plan shall, except as otherwise provided herein, confer upon the applicant the following rights for a three (3) year period from the date of adoption of the resolution of preliminary approval:
    1. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not

limited to use requirements; layouts and design standards for streets, curbs and sidewalks; lot size; yard dimensions; and off-tract improvements, and, in the case of a site plan, any requirements peculiar to site plan approval pursuant to N.J.S.A. 40:55D-41; to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relates to public health and safety.

2. That the applicant may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be.
  3. That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one (1) year, but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards shall govern.
    - b) Whenever the Planning Board grants an extension for preliminary approval and preliminary approval has expired before the date of the grant of the extension, the extension shall revive preliminary approval and date from what was otherwise the date of expiration. The applicant may apply for the extension either before or after what would otherwise be the date of expiration.
4. Final Approval.
- a) Application for final subdivision or site plan approval shall be granted or denied within forty-five (45) days of submission of a complete application to the Zoning Officer or within such further time as may be consented to by the applicant.
  - b) Final approval of a subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the applicant with the County Recording Officer, the Borough Engineer and the Borough Tax Assessor. The Planning Board may, for good cause shown, extend the period for recording by an additional period not to exceed one hundred ninety (190) days from the date of the signing of the plat. The Planning Board may extend the ninety-five (95) or one hundred ninety (190) day periods if the applicant proves to the reasonable satisfaction of the Planning Board that the applicant was barred or prevented, either directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and the applicant applied promptly for and diligently pursued these approvals. Such extension shall be equal to the periods of delay caused by the wait for the required approvals as determined by the Planning Board, and the applicant may apply for such extension either before or after the original expiration date.

5. Effect of Final Approval.

- a) The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the applicant at preliminary approval, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of adoption of the resolution of final approval, provided that in the case of a subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within the required time periods. If the applicant has followed the standards prescribed for final approval and in the case of a subdivision, has duly recorded the plat, the Planning Board may extend such periods of protection for extensions of one (1) year, but not to exceed three (3) extensions. Notwithstanding any other provisions of N.J.S.A. 40:55D-1 et seq., the granting of final approval terminates the time periods of the rights conferred by preliminary approval.
  - b) Whenever the Planning Board grants an extension of preliminary approval and preliminary approval has expired before the date of the grant of the extension, the extension shall revive preliminary approval and date from what was otherwise the date of expiration. The applicant may apply for the extension either before or after what would otherwise be the date of expiration.
6. Combined Preliminary and Final Subdivision or Site Plan Approval.
- a) An applicant may request, and the Planning Board may consent to accept, an application for development for combined preliminary and final subdivision or site plan approval, provided that:
    - 1. The proposed development is not to be constructed in sections or stages.
    - 2. The applicant pays the application fees and provides all submissions required for both preliminary and final applications.
    - 3. The applicant complies with any notice of hearing requirements applicable to the preliminary plat stage.
  - b) Any approval granted by the Planning Board on such combined application shall confer upon the applicant all the rights set forth in this section for final approval.

7. Failure to Act. A certificate of the Zoning Officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for the purpose of filing subdivision plats.

Q. Simultaneous Review. The Planning Board shall have the power to review and approve or deny site plans simultaneously with review for subdivision approval without requiring the applicant to make further application to the Planning Board or requiring the Planning Board to hold further hearings. The longest time period for action by the Planning Board, whether it is for subdivision or site plan approval, shall apply.

§ 30-18. Zoning Powers of Planning Board.

A. The Planning Board shall hereby exert all the powers of a Zoning Board of Adjustment and shall have the power to:

1. Hear and decide appeals where the appellant alleges that there is error in any order, requirement, decision or refusal made by the Zoning Officer based on or made in the enforcement of this chapter.
  - a) Appeals to the Planning Board may be taken by any interested party. Each appeal shall be taken within the twenty (20) day period prescribed by N.J.S.A. 40:55D-72 by filing with the Planning Board Secretary a notice of appeal together with fifteen (15) copies of the notice. The notice of appeal shall specify the grounds for the appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
  - b) The Planning Board shall render a decision on the appeal not later than one hundred twenty (120) days after the date of the appeal from the decision of the Zoning Officer. Failure of the Planning Board to render a decision within the one hundred twenty (120) day period shall constitute approval of the appeal.
  - c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Planning Board, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Superior Court of New Jersey, on application or notice to the officer from whom the appeal is taken and to the Borough Council, and on good cause shown.
  - d) The Planning Board may, in conformity with the provisions of N.J.S.A. 40:55D-1 et seq., reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the administrative order as ought to be made, and to that end the Planning Board shall have all the powers of the Zoning Officer from whom the appeal was taken.
2. Hear and decide requests for interpretation of the Zoning Map or this chapter, in accordance with N.J.S.A. 40:55D-1 et seq.
3. Hear and decide requests for general variances ["C" Variances] as follows:
  - a) "(C)(1) Variance." Where, by reason of exceptional narrowness, shallowness or shape of a specific property; or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to this chapter or N.J.S.A. 40:55D-1 et seq. would result in peculiar and exceptional and undue hardship upon the applicant for development of such property, grant, upon an application or an appeal relating to such property, a variance from strict application of such regulation so as to relieve such difficulties or hardship.
  - b) "(C)(2) Variance." Where, in an application or appeal relating to a specific piece of property, the purposes of this chapter and N.J.S.A.

40:55D-1 et seq., would be advanced by a deviation from this chapter's requirements and the benefit of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to this chapter and N.J.S.A. 40:55D-1 et seq.

4. Special Variance ["D" Variance]. In particular cases and for special reasons, the Planning Board may grant a variance to allow departure from regulations pursuant to N.J.S.A. 40:55D-62 et seq. to permit
    - a) a use or principal structure in a zone restricted against such use or principal structure,
    - b) an expansion of a nonconforming use,
    - c) deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use,
    - d) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, or
    - e) a height of a principal structure which exceeds by ten (10) feet or ten (10%) percent the maximum height permitted in the zone for a principal structure.
  5. The Planning Board shall, at least once a year, review its decisions on applications and appeals for variances and shall prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests, together with the Planning Board's recommendations for zoning ordinance amendment or revision, if any. The report shall be filed with the Borough Clerk.
- B. Expiration of Variances. Any variance granted by the Planning Board permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire two (2) years from the date of publication of the notice of the judgment or determination of the Planning Board, unless the construction, alteration or use has actually been substantially commenced on each and every structure permitted by the variance, or unless such development has actually been substantially commenced, within the two-year period. The period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Planning Board to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding. Where subdivision or site plan approval is required, the period of time for commencement of the development specified by the Planning Board shall be the same as the period of time for which other rights are conferred upon the applicant by such subdivision or site plan approval pursuant to the provisions of this chapter.

#### § 30-19. Application Procedure.

- A. Applications for a development permit to be issued by the Planning Board shall be accompanied by at least fifteen (15) copies. Applications shall not be accepted by the Zoning Officer unless they are accompanied by the required fees set forth in this chapter.
- B. Review by Zoning Officer. Upon receipt of an application, the Zoning Officer shall review the application and supporting exhibits for compliance with submission requirements. Upon completion of this review, the Zoning Officer shall also, upon receipt of an application for a site plan or subdivision, forward one (1) copy of each of the applications, plat and attachments to the Borough Engineer.

C. Engineering Review. The Borough Engineer shall review applications for site plans and subdivisions to determine if the applications are complete. If the application is incomplete, the Borough Engineer shall notify the applicant of any deficiencies. If the application is complete, the application shall be scheduled for hearing by the Planning Board.

D. Planning Board Action. In acting upon an application for a subdivision, variance or site plan, the Planning Board shall consider whether the application complies with the following standards:

1. The proposed use is consistent with the Master Plan;
2. The details and improvement standards of the plat are in accordance with the standards of this chapter;
3. Adequate provision is made for safe and convenient vehicular traffic access, circulation and parking;
4. Adequate provision is made for safe and convenient pedestrian circulation;
5. Ingress and egress for the site will not impede or obstruct the flow of traffic on public streets;
6. Adequate provision has been made for the collection and disposal of surface water runoff and the proposed drainage facilities have been approved by the Borough Engineer;
7. Adequate provision has been made to screen adjoining residential properties from any adverse effects that might result from outdoor lighting, buildings, parking areas, or similar site features or structures located on the site;
8. Adequate provision has been made for compliance with the performance standards of this chapter;
9. Adequate provision has been made to provide structures and uses of a quality and design which will not produce adverse effects on the surrounding area in the Master Plan; and
10. The proposed development is compatible with approved subdivision and/or site plans for adjacent and nearby parcels of land.

E. Reproduction Fee and Issuance of Development Permits. Approvals of all applications for development permits shall not be valid until the completion of the following procedures:

1. The Zoning Officer shall certify that all conditions of approval have been satisfied.
2. In the case of applications for site plans and subdivisions, the applicant shall submit the reproducible original of the plat for the signature of the Chairman and Secretary or Assistant Secretary of the Planning Board and the Borough Engineer.
3. In the case of applications for site plans and subdivisions, the applicant shall pay a reproduction fee equal to three (\$3.00) dollars per sheet of the plat and attachments, except that the minimum fee shall be five (\$5.00) dollars.
4. The Zoning Officer shall cause three (3) copies of the signed plat and attachments to be reproduced. One (1) copy shall be retained in the files of the Zoning Officer, and one (1) copy shall be retained in the files of the Borough Engineer.
5. After signature and reproduction, the Zoning Officer shall return the reproducible original of the plat and attachments to the applicant.

6. For all applications that receive minor plat or final plat approval, the Zoning Officer shall issue a zoning permit after the plat has been signed. The date of the zoning permit shall be the date upon which the approval becomes valid. The date upon which the approval of applications related to sketch plats or preliminary plats becomes valid shall be the date on which the plat is signed by the Chairman and Secretary or Assistant Secretary of the Planning Board. However, the period of time for which certain rights are conferred upon the applicant shall commence on the date which the Planning Board granted the approval.

F. At the time of application, the Planning/Zoning Board secretary will provide a copy of all site plan and/or subdivision application documents to the Mantoloking Borough Environmental Commission for review.

#### § 30-20. Required Submissions.

Prior to issuance of a certificate of completeness or scheduling of an application for development by the Planning Board, the Zoning Officer shall determine that the requirements of this chapter have been met by the applicant's submission. The applicant shall complete and submit the following:

1. Fifteen (15) copies of the prescribed Borough development application;
2. Fifteen (15) copies of a property survey map, prepared, signed and sealed by a licensed New Jersey land surveyor. The map shall have been prepared based upon a survey made within the past twelve (12) months preceding the date of the application;
3. A Flood Elevation Certificate for existing buildings.
4. Certification by the municipal Tax Collector that all taxes relating to the subject property have been paid;
5. Certification by the applicant's attorney that the applicant is the owner of the lot in question and for which development approval is being sought;
6. Fifteen (15) copies of all plans the applicant intends to utilize at the hearing; and
7. Applicable fees.

#### § 30-21. Site Plans.

A. Optional Submission of Sketch Plat. Applicants are encouraged to submit a sketch plat of a site during the early design stages containing that information necessary to form a basis for discussion of alternatives for development. A detailed review of a sketch plat will minimize the necessity of major revisions in the more detailed preliminary plat submission. Application fees paid at the sketch plat submission stage will be deducted from the required application fees at the preliminary plat stage if submittal of the preliminary plat is made within one (1) year from the date of sketch plat approval.

B. Sketch Plat Requirements. Prior to issuance of a certificate of completeness or scheduling of a public hearing for the sketch plat before the Planning Board, the Zoning Officer shall determine that the following have been submitted in proper form:

1. Application fees.
2. Fifteen (15) copies of the plat and attachments meeting the requirements set forth below:

(a) The sketch plat shall be based on a land survey or a current tax map;

(b) The plat shall be drawn at a scale not less than one hundred (100) feet to the inch (100':1");

(c) The title block shall appear on all sheets and shall include:

- (1) Tax map sheet, block and lot numbers;
- (2) Names and addresses of owner and applicant, so designated; and
- (3) Date of original application and all revisions.

(d) Detailed information, including but not limited to the following:

- (1) A key map adequately showing the location of the site with reference to surrounding areas and streets;
- (2) Schedule indicating acreage of tract, number of lots, and zone;
- (3) Zone boundaries;
- (4) All existing structures and streets;
- (5) Boundaries, nature and extent of environmentally sensitive areas, including but not limited to dunes and riparian lands, including such evidence of demarcation of such areas as may be provided by the dune reference line, mean high-water line, and bulkhead line;
- (6) Layout of proposed site plan or subdivision.

### C. Plat Requirements.

1. General Requirements. The plat for a site plan shall be drawn at a scale of not less than fifty feet to the inch (50': 1") shall conform to the provisions of N.J.S.A. 46:23-9.9 et seq., as amended and supplemented, and shall include or be accompanied by the information specified below; provided, however, that the information required for construction, alteration or expansion of a single-family dwelling in a residential zone may be modified or waived by the Zoning Officer:

(a) Dimensions, both linear and angular, of the exterior boundaries of the site plan or subdivision. All lots and lands reserved or dedicated for public use shall balance and their descriptions shall close within a limit of error of not more than one (1) part in ten thousand (10,000).

(b) The site plan shall be based upon a current boundary survey certified to by the applicant and prepared by a land surveyor licensed in the State of New Jersey or recertified not less than twelve (12) months prior to the date of application.

2. Title Block. The title block shall appear on all sheets and shall include:

- (a) Title of Site Plan;
- (b) Name of the subdivision, if any;
- (c) Tax Map sheet, block and lot number(s) of the tract to be subdivided as shown on the latest Borough Tax Map, the date of which shall also be shown;
- (d) The acreage of the tract to the nearest tenth of an acre;
- (e) The names and addresses of owner and applicant so designated;
- (f) The date of the original plat and all revisions; and
- (g) The name(s), signature(s), address(es) and license number(s) of engineer and/or land surveyor who prepared the map and made the survey. The plat shall bear the embossed seal of the engineer and/or land surveyor.

3. Detailed Information.

(a) A key map adequately showing the location of the site with reference to surrounding areas, existing streets, the names of all such streets and any zone boundary or Borough boundary which is within five (500) hundred feet of the site;

- (b) The names of all owners and property lines of parcels within two (200) hundred feet of the site, including properties across the street;
- (c) All zone boundaries and Tax Map sheet, lot and block numbers, existing streets and watercourses within two hundred (200) feet of the boundaries thereof, and both the width of the paving and the width of the right-of-way of each street, existing public easements and municipal borders within two hundred (200) feet of the site;
- (d) All existing structures, with an indication of any which are to be destroyed or removed, and the front, rear and side yard dimensions of any to remain, referenced to proposed lot lines;
- (e) All existing and proposed public easements or rights-of-way and the purposes thereof;
- (f) The existing system of drainage of the site and of any larger tract of which it is a part, together with information on how the applicant proposes to dispose of surface drainage;
- (g) All proposed lot lines and the areas of all lots in square feet. The areas and dimensions specified shall be shown to the nearest hundredth of a square foot or hundredth of a linear foot;
- (h) North arrow;
- (i) Written and graphic scales;
- (j) A corporation or partnership shall list the names and addresses of all stockholders or individual partners owning at least ten (10%) percent of its stock of any class or at least ten (10%) percent of the interest in the partnership, as the case may be. This requirement shall be followed by every corporate stockholder or partner in a partnership until the names and addresses of the noncorporate stockholders and individual partners exceeding the ten (10%) percent ownership criterion have been listed;
- (k) Proposed lot and block numbers approved by the Borough Engineer; and
- (l) Such other information as the Planning Board and/or Borough Engineer may require or request during the review of the application for classification and approval as a site plan.

D. Review by Zoning Officer. Prior to issuance of a certificate of completeness or scheduling of a site plan for consideration by the Planning Board, the Zoning Officer shall determine that requirements of this chapter have been met by the applicant's site plan submission. Site plan applications shall conform to the greatest extent practical with the detailed requirements of Subsection **30-35** Surface Water Management.

§ 30-22. Subdivisions.

- A. Conditions of Approval. Any approval of an application for development for a subdivision or site plan granted by the Planning Board shall be subject to the following conditions being satisfied prior to the signing of the subdivision or site plan or issuance of a development permit:
  1. Posting of performance guarantees for the installation of any improvements required by the Planning Board;
  2. Proof of payment of any outstanding real estate taxes or other municipal charges;
  3. Ocean County Planning Board approval, if required and not previously granted;

4. Mantoloking Borough approval or waiver of sewer requirements, if not previously granted;
5. Payment of the required reproduction fees;
6. Submission of additional prints of the plat map and attachments for distribution, if required;
7. The applicant's publication of a notice of the decision;
8. Any other conditions which may be imposed by the Planning Board or which may be required by Federal, State or local law;
9. When improvements are required in public rights-of-way, evidence of a comprehensive general liability insurance policy in an amount not less than one million (\$1,000,000.00) dollars per occurrence, indemnifying and holding harmless the Borough of Mantoloking and its officials, officers, agents, servants, employees, and professional service providers from any liability for any acts of the applicant or his agents, contractors or employees in the implementing of the approved subdivision. The insurance policy shall provide for thirty (30) days' notice to the Borough prior to cancellation. It shall be a violation of this chapter for any property owner, applicant or builder to implement the approved subdivision without current valid evidence of insurance on file; and
10. The Borough Engineer's approval of the Surface Water Management Plan.

**B. Plat Requirements.**

**1. General Requirements.**

(a) Any subdivision presented to the Planning Board for its approval shall be drawn, signed and appropriately sealed by an architect, professional engineer, land surveyor and/or professional planner licensed to practice in the State of New Jersey as each is permitted by law.

(b) Subdivisions and site plans shall not be drawn at a scale smaller than one inch equals fifty feet (1"=50') nor larger than one inch equals ten feet (1"=10').

**2. Title Block.** The title block shall appear on all sheets and shall include:

(a) The title of Subdivision or Site Plan, whichever shall apply;

(b) The name of the development, if any;

(c) The Tax Map sheet, block and lot number of the site, as shown on the latest Borough Tax Map, the date of which should also be shown;

(d) The date of the original subdivision and all revisions;

(e) The names and addresses of the owner and applicant for development, so designated;

(f) The name(s), signature(s), address(es) and license number(s) of the engineer, architect, land surveyor or planner who prepared the plat and their embossed seal; and

(g) If the subdivision contains more than one (1) sheet, each sheet shall be numbered and titled.

**3. A schedule indicating:**

(a) The acreage of the tract and siting the portion of the tract involved in the subdivision;

(b) The floor area of the existing and proposed buildings, listed separately;

(c) The proposed use or uses and the floor area devoted to each use;

(d) The zone in which the site is located;

(e) Proposed and required lot dimensions and front, rear and side setbacks;

(f) Proposed and required off-street parking spaces; and

- (g) Square footage and percentage of the site retained in unoccupied open space.
4. North arrow, written and graphic scales.
  5. Sufficient spot elevations (United States Coast and Geodetic Datum) and/or contour lines to indicate the proposed system of surface drainage and the relationship of proposed grading to the land surrounding the site, including dune elevations if applicable.
  6. The tops of the banks and boundaries of the floodways and flood hazard areas of all existing watercourses, where such have been delineated, or the scarp line in the case of oceanfront property, or the limits of alluvial soils where the boundaries of floodways and flood hazard areas have not been determined, and/or such other information as may assist the Planning Board in the determination of floodway and flood hazard area limits.
  7. Paving and right-of-way widths of existing streets within two hundred (200) feet of the site.
  8. The boundary, nature and extent of any environmentally sensitive areas, including but not limited to dunes and riparian lands, as well as such demarcation of such areas as may be provided by the dune reference line, the mean high—water line, or the bulkhead line.
  9. All existing structures on the site and within two hundred (200) feet of the site, indicating those to be destroyed or removed and those to remain, and including the use thereof.
  10. Location, use, finished grade level, ground coverage, first floor and other pertinent improvements.
  11. Existing and proposed public easements or rights-of-way and the purpose thereof.
  12. Zone boundaries and tax map sheet, lot and block numbers and names of owners of all properties within two hundred (200) feet of the site.
  13. A key map adequately showing the location of the site with reference to surrounding areas, existing streets, the names of all such streets and any zone boundary or Borough boundary which is within five hundred (500) feet of the subdivision.
  14. The capacity of off-street parking areas and the location and dimensions of all access drives, aisles and parking stalls.
  15. The location and size of proposed loading docks.
  16. Location of curbs and sidewalks.
  17. Cross section(s) showing the composition of pavement areas, curbs and sidewalks.
  18. Exterior lighting plan, including the location and drawn details of all outdoor lighting standards and fixtures and a notation on the plat indicating conformity or nonconformity with the minimum design standards of this chapter.
  19. Landscaping and screening plan showing the location type, spacing and number of each type of tree or shrub and the location, type and amount of each type of ground cover to be utilized.
  20. Location of signs and drawn details showing the size, nature of construction, height and content of all signs. See Subsection 30-6.14.
  21. Drawn details of the type of screening to be utilized for refuse storage areas.
  22. Floor plans and building elevation drawings of any proposed structure or structures, or existing structures to be renovated.
  23. Proposed measures for surface water management consistent with this chapter.
  24. Approval block for signatures of the Planning Board Chairman and the Borough Engineer.

C. Preliminary Subdivision Approval — Time for Decision.

1. A complete application for preliminary approval of a subdivision shall be submitted to the Zoning Officer. The plat and any other engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval.

2. If the Planning Board requires any substantial amendment in the layout of improvements proposed by the applicant that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Planning Board shall, if the proposed development complies with this chapter, grant preliminary subdivision approval.

3. Upon the submission to the Secretary of the Planning Board of a complete application for a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the applicant.

4. Upon the submission of a complete application for a subdivision of more than ten (10) lots, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the applicant.

5. Failure of the Planning Board to reach a decision within the specified time periods or extensions thereof shall result in the approval of the subdivision as submitted.

D. Effect of Preliminary Subdivision Approval.

1. If the Planning Board acts favorably on a preliminary application, a notation to that effect shall be made on the plat.

2. Preliminary approval of a subdivision shall confer upon the applicant the following rights for a three (3) year period from the date of the preliminary approval:

(a) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs, and sidewalks; lot size; yard dimensions and off-tract improvements; except that nothing herein shall be construed to prevent the Borough from modifying, by ordinance, such general terms and conditions of preliminary approval as relate to public health and safety;

(b) That the applicant may submit for final approval on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary subdivision plat; and

(c) That the applicant may apply for, and the Planning Board may grant, extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

E. Final Approval of Subdivisions.

1. The final plat shall be submitted to the Planning Board for final approval within three (3) years from the date of preliminary approval.

2. The Planning Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by this chapter; the conditions of preliminary approval; and the standards prescribed by the "Map Filing Law", N.J.S.A. 46:23-9.9 et seq. as amended and supplemented.

3. Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the Secretary of the Planning Board, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute final approval, and a certificate of the Planning Board Secretary as to the failure of the Planning Board to act shall be issued on the applicant's request, and it shall be sufficient in lieu of the written endorsement or other required evidence of approval, and shall be so accepted by the County Recording Officer for the purpose of filing subdivision plats.

4. A complete application for final approval shall consist of the following where applicable:

(a) A properly completed subdivision application form;

(b) Payment of the required fee; and

(c) A subdivision plat conforming with the "Map Filing Law", N.J.S.A. 46:23-9.9.

F. Waiver of Requirements Authorized. When acting upon applications for preliminary approval, the Planning Board shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this chapter if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

G. Effect of Final Approval of Subdivisions. The requirements applicable to the preliminary approval first granted and all other rights conferred upon the subdivision, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval; provided that in the case of a subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within ninety-five (95) days from the date of signing of the plat, unless within such period the applicant filed the plat with the County Recording Officer. If the applicant has followed the standards prescribed for final approval, and has duly recorded the plat as required in this chapter, the approving authority may extend such period of protection for extensions of one (1) year but not to exceed three (3) extensions.

H. Guarantees Required.

1. Before the recording of final subdivision plats, the Planning Board may require, and shall accept in accordance with the standards adopted by this chapter, for the purpose of assuring the installation and maintenance of on-tract improvements:

(a) The furnishing of a performance guarantee in favor of the Borough in an amount not to exceed one hundred twenty (120%) percent of the cost of installation, for improvements it may deem necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments as shown on the final map and required by the "Map Filing Law", N.J.S.A. 46:23-9.9 et seq., water mains, culverts, storm sewers, sanitary sewers, or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, or public improvements of open space; provided that no more than ten (10%) percent of the total performance guarantee shall be required to be in cash, and the balance shall be in the form of a bond from a bonding company, approved by the Borough Council, or an irrevocable letter of credit, provided the letter of credit meets the requirements of N.J.S.A. 40:55D-53.5.

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The Borough Engineer shall review the improvements required by the Planning Board which are to be bonded and shall itemize their cost. The Borough Engineer's itemization shall be the basis for determining the amount of performance guarantee and maintenance guarantee required by the Planning Board. The Borough Engineer shall forward his estimate of the cost of improvements to the applicant within thirty (30) days of the date of receipt of an applicant's request for the estimate. The applicant may appeal the Borough Engineer's estimate to the Borough Council, which shall decide the appeal within forty-five (45) days of the Borough Clerk's receipt of the appeal in writing. The applicant's right to further appeal shall be governed by N.J.S.A. 40:55D-53.4. (b) The furnishing of a maintenance guarantee to be posted with the Borough Clerk for a period not to exceed two (2) years after final acceptance of the improvement, in an amount not to exceed fifteen (15%) percent of the cost of the improvement, as determined by the Borough Engineer. In the event that governmental agencies or public utilities other than the Borough of Mantoloking will own the utilities to be installed by operation of law or if the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Borough of Mantoloking for such utilities or improvements.

2. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Borough Council by Resolution. As a condition or as part of any such extension, the amount of a performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty (120%) percent of the cost of the installation as determined as of the time of the passage of the resolution.

3. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected and the Borough may complete such improvements either prior to or after the receipt of the proceeds of the guarantee.

4. Upon substantial completion of all required appurtenant utility improvements, and the connection of the improvements to the public system, the obligor may notify the Borough Council in writing, by certified mail addressed in care of the Borough Clerk, of the completion or substantial completeness of the improvements, and shall send a copy of the written notice to the Borough Engineer. Upon receipt of the notice, the Borough Engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the Borough Council, indicating either approval, partial approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements rejected shall be set forth.

5. The Borough Council shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough Engineer and shall notify the obligor in writing, by certified mail, of the contents of the report and the action of the Borough Council not later than forty-five (45) days after receipt of the Borough Engineer's report. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee except for the improvements not yet approved; provided that thirty (30%) percent of the amount of the performance guarantee posted may be retained to ensure completion of all improvements. Failure of

the Borough Council to send or provide such notification to the obligor within forty-five (45) days of the Borough Engineer's report shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to the performance guarantee for such improvements.

6. If any portion of the required improvements is rejected, the Borough Council may require the obligor to complete such improvements and, upon completion, the same procedure of notification as set forth in this section shall be followed.

7. The obligor shall reimburse the Borough for all reasonable inspection fees paid the Borough Engineer for the foregoing inspection of improvements; provided that the Borough may require of the applicant a deposit for all or a portion of the reasonably anticipated fees to be paid to the Borough Engineer for such inspection. The deposit shall not exceed the greater of five hundred (\$500.00) dollars or five (5%) percent of the cost of improvements, except for extraordinary circumstances.

8. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, then the provisions of this section shall be applied by stage or section.

I. Filing of Subdivision Plats.

1. Final approval of a subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the applicant filed the plat with the County Recording Officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat.

2. The Planning Board may extend the ninety-five (95) day or one hundred ninety (190) day period if the applicant proves to the reasonable satisfaction of the Planning Board that the applicant was barred or prevented directly or indirectly from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities, and that the applicant applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals as determined by the Planning Board.

3. Final approval of a subdivision shall be evidenced by affixing to the plat the signature of the Chairman and Secretary of the Planning Board, or a copy of the certificate of the Secretary of the Planning Board indicating that the Planning Board failed to reach a decision on the subdivision application within the prescribed time. The signatures of the Chairman and Secretary of the Planning Board shall not be affixed until the applicant has posted the guarantees required pursuant to this chapter.

J. Selling Land Before Final Subdivision Approval.

1. If, before final subdivision approval has been granted, any person transfers or sells, or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which Borough approval is required by this chapter, such person shall be subject to a penalty not to exceed one thousand two hundred fifty (\$1,250.00) dollars; provided, however, that each lot disposition so made may be deemed a separate violation.

2. In addition to the foregoing, the Borough may institute and maintain a civil action:  
(a) For injunctive relief; or

(b) To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.

3. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the applicant, his assigns or successors, to secure the return of any deposit made or purchase price paid, in addition to a reasonable search fee, survey expenses and title closing expenses, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of the land, or within six (6) years, if unrecorded.

K. Certificates Showing Approval.

1. The prospective purchaser, prospective mortgagee, or any other person interested in any land which forms part of a subdivision, or which formed part of such a subdivision as of August 1, 1973, may apply in writing to the Borough Clerk for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

2. The Borough Clerk shall make and issue such certificate within fifteen (15) days after the receipt of the written application and the fees required by this chapter and by N.J.S.A. 54:5-14 and 54:5-15. The Borough Clerk shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his or her office.

3. Each such certificate shall be designated a "Certificate as to Approval of Subdivision of Land" and shall certify:

(a) That there exists in the Borough of Mantoloking a duly established Planning Board and that there is an ordinance controlling subdivision of land adopted under the authority of the "Municipal Land Use Law of 1975, c. 291 as amended and supplemented." (N.J.S.A. 40:55D-1 et seq.);

(b) Whether the subdivision, as it relates to the land shown in the application, has been approved by the Planning Board, and if so, the date of such approval and any extensions and terms thereof, showing that the subdivision of which the lands are a part is a validly existing subdivision; and

(c) If the subdivision has not been approved, whether the subdivision is statutorily exempt from the requirement of approval as provided in N.J.S.A. 40:55D-1 et seq.

4. The Borough Clerk shall be entitled to demand and receive for such certificate issued by him or her a reasonable fee not in excess of that provided in N.J.S.A. 54:5-14 and 54:5-15. The fees so collected by the Borough Clerk shall be paid over to the Borough.

§ 30-23. Performance and Maintenance Guarantees.

A. Performance guarantee

(1) Requirements; form; rights.

(a) Improvements; cost.

(1) Prior to the filing of a final plat, recording of minor subdivision deeds, or as a condition of final site plan approval, or as a condition to the

issuance of a zoning permit, the developer shall have filed with the Borough Clerk a performance guarantee sufficient in amount to equal the total cost to the Borough, as estimated by the Borough Engineer, for installation of those on-site improvements required by an approval or developer's agreement, ordinance or regulations to be dedicated to a public entity that have not yet been installed, including the following as shown on the approved plans or plat:

- (a) Streets
- (b) Pavement
- (c) Gutters
- (d) Curbs
- (e) Sidewalks
- (f) Street Lighting
- (g) Street Trees
- (h) Surveyor's monuments
- (i) Water mains
- (j) Sanitary sewers
- (k) Community septic systems
- (l) Drainage structures
- (m) Public improvements of open space
- (n) any grading necessitated by the preceding improvements
- (o) Privately owned perimeter buffer landscaping, provided, however that a developer may choose to post a separate performance guarantee for the privately-owned perimeter buffer landscaping

**(b)** Such guarantee shall assure the installation of such improvements on or before an agreed date, guarantee the completion of all improvements without damage to or interference with adjacent properties or public facilities and hold the Borough Council and Borough Planning Board or Zoning Board of Adjustment and their employees and agents harmless with respect to any acts of the developer, its agents, successors or assigns.

**(c)** The total estimated cost to the Borough of constructing all improvements shall be based upon the estimated contract construction costs, which would prevail upon expiration of the guarantee period, and shall also include appropriate allowances for contract-related costs such as engineering, legal, financial and other usual costs, which shall be estimated to be 20% of the estimated contract construction costs.

**(d)** Such performance guarantee may be in the form of cash, certified check, negotiable securities, a performance bond issued by a bonding company or surety company approved by the Borough Council or any other type of surety acceptable to and approved by the Borough Attorney and Borough Council, provided that at least 10% of the performance guarantee shall be in cash or certified check. The balance of said performance guarantee shall be in the form of cash, certified check, certificate of deposit, an irrevocable letter of credit (said letter to be issued by a financial institution whose deposits are insured by the Federal Savings and Loan Insurance Corporation or Federal Deposit Insurance Corporation) or a bond

issued by a surety or bonding company authorized to do business in New Jersey; provided, however, that all rights, including the right to interest with dividends, shall be assigned to the Borough of Mantoloking in a form of assignment acceptable to the Borough Attorney for the period of the bond and that the principal amount of the passbook or certificate of deposit, together with interest, shall be returned to the developer upon completion of the bonded improvements, or, in the event of default, both interest and principal shall be used by and for the benefit of the Borough in the completion of said improvements.

(e) The form of the performance guarantee shall be subject to the approval of the Borough Attorney.

(f) Subject to N.J.S.A. 40:55D-1 et seq., as amended and supplemented, all rights in the performance guarantee, including the right to any interest earned on any deposits, shall belong to the Borough of Mantoloking.

(g) Notwithstanding the requirement of Subsection A(1) above, when a letter of credit which has been previously accepted pursuant to Subsection A(1) as a performance guarantee is about to expire, it may be renewed administratively by the Borough Attorney, provided that all pertinent requirements are met by the applicant.

(h) In the event of default, the principal and any interest shall be used for the benefit of the Borough in the completion of the improvements.

(2). All guaranties authorized by this Chapter shall run to and be in favor of the Borough of Mantoloking in the County of Ocean.

(3) Such performance guarantee shall run for a period to be fixed by the Borough Council, but in no case for a term of more than two years. However, with the consent of the owner and the surety, if there is one, the Borough Council may, by resolution, extend the term of such performance guarantee for an additional period not to exceed one year. The amount of the performance guarantee may be revised by the Borough Council from time to time to reflect work progress, increasing costs and changing conditions in regard to the uncompleted or unacceptable portions of the required improvements. If the required improvements have not been installed in accordance with the performance guarantee, the obligor and surety shall be liable thereon, at the option of the municipality, for:

(a) The reasonable cost of the improvements not installed, and, upon receipt of the proceeds thereof, the municipality shall install such improvements; or

(b) The completion of all required improvements.

(4) Municipal Engineer list and report.

(a) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the Municipal Clerk, that the Municipal Engineer prepare, in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee pursuant to Subsection A of this section, a list of all uncompleted or unsatisfactorily completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Municipal Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon, the Municipal Engineer shall inspect all improvements covered by obligor's request and shall

file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.

**(b)** The list prepared by the Municipal Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Municipal Engineer shall identify each improvement determined to be complete and satisfactory, together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee pursuant to Subsection A of this section.

**(5) Approval or rejection of governing body.**

**(a)** The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Municipal Engineer or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee pursuant to Subsection A of this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Municipal Engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved, provided that 30% of the amount of the total performance guarantee and “safety and stabilization guarantee” posted may be retained to ensure completion and acceptability of all improvements. The “safety and stabilization guarantee” shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee pursuant to Subsection A of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the municipality may retain 30% of the amount of the total performance guarantee and “safety and stabilization guarantee” to ensure completion and acceptability of bonded improvements as provided above; except that any amount of the performance guarantee attributable to bonded improvements for which a “temporary certificate of occupancy guarantee” has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the municipality below 30 percent.

(b) If the Municipal Engineer fails to send or provide the list and report as requested by the obligor pursuant to Subsection 4 of this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Municipal Engineer to provide the list and report within a stated time, and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

If the governing body fails to approve or reject the improvements determined by the Municipal Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Municipal Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee pursuant to Subsection A of this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

(c) In the event that the obligor has made a cash deposit with the municipality or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.

(6) If any portion of the required improvements are rejected, the Borough Council may require the obligor to complete such improvements, and, upon completion, the same procedure of notification as set forth in this section shall be followed.

(7) Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Borough Committee or the Borough Engineer.

#### B. Safety and Stabilization Guarantee

(1) The developer shall furnish a "safety and stabilization guarantee" in favor of the Borough of Mantoloking to ensure that the Borough has an adequate guarantee to return the property that has been disturbed to a safe and stable condition or otherwise implement measures to protect the public from access to an unsafe or unstable condition.

(2) The Borough shall be permitted to access the guarantee when:

(a) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure; and

(b) work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee.

(c) At the developer's option, the "safety and stabilization guarantee" may be included as a line item in the performance guarantee rather than in the form of a separate guarantee.

(d) The amount of the safety and stabilization guarantee shall be calculated pursuant to N.J.S.A. 40:55D-53.4 as follows:

(i) \$5,000 for the first \$100,000 of bonded improvement costs, plus

(ii) Two and a half percent (2.5%) of bonded improvement costs in excess

of \$100,000 up to \$1,000,000; plus

(iii) One percent (1%) of bonded improvement costs in excess of \$1,000,000.

(e) The safety and stabilization guarantee shall be released upon the determination of the Borough engineer that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

#### C. Temporary Certificate of Occupancy Guarantee

(1) In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee" in favor of the Borough of Mantoloking in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee.

(2) Upon posting of a "temporary certificate of occupancy guarantee," all sums remaining under a performance guarantee which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released.

(3) The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the Borough Engineer

(4) The "temporary certificate of occupancy guarantee" shall be released by the Borough Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

#### D. Maintenance Guarantee

1. A maintenance guarantee shall be furnished by the developer prior to the release of the performance guarantee in an amount equal to 15% of the installation of the improvements covered under the performance guarantee along with the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any.

2. The developer may elect to furnish such maintenance guarantee either by maintaining on deposit with the Borough the ten-percent cash or certified check portion of the performance guarantee provided in accordance with of this chapter or by a bond issued by a bonding company or surety company, or other type of surety acceptable to and approved by the Borough Attorney and Borough Council.

3. The maintenance guarantee shall begin with the release of the performance guarantee and shall run for a period of two years. The guarantee shall automatically expire at the end of the established term.

4. The maintenance guarantee shall be to the effect that the applicant, developer, owner or user guarantees the complete maintenance of all improvements for a period of two years from the release of his performance guaranty. Should he fail in his obligation to properly maintain all improvements, the Borough may, on 10 days' written notice, or

immediately in the case of hazard to life, health or property, proceed with necessary repair or replacement of any unacceptable improvements and charge the cost thereof against the guaranty. At the end of the maintenance guaranty, the cash or certified check on deposit will be returned to the developer less any sums, properly documented by the Borough, which have been expended to repair or replace any unsatisfactory improvements.

## ARTICLE 6 - DESIGN STANDARDS

### § 30-24. General Standards.

- A. All site plan and subdivision plats shall conform to design standards that will encourage good development patterns within the Borough. All site plan and subdivision plats shall conform to the Official Map and Master Plan adopted by the Borough. The streets, drainage rights-of-way, dune area and public walkways shown on the Master Plan and Official Map, if any, shall be considered in determining if approval should be granted to any site plan or subdivision plat.
- B. When an applicant seeks to utilize design standards in addition to, or other than, those minimum requirements established herein, the applicant is advised to consult with the Planning Board prior to beginning a detailed design for review and approval of the proposed design standards. Standards utilized should generally be nationally recognized and in common use in this area. Design standards may not be utilized if they do not have the approval of the Planning Board.
- C. Standards set forth in this section shall be taken to be the minimum necessary to meet its purposes. The Planning Board shall see that these minimum standards are followed and, in those cases not covered by these standards, sufficient precautions are taken to assure that the eventual design is conducive to the implementation of the purposes of this chapter and the Borough's Master Plan.
- D. Site plans and subdivisions shall be completed in substantial accordance with the application as submitted, subject however, to the provision that if deviations may be caused by a change of conditions beyond the control of the applicant subsequent to the date of final approval, and if the Planning Board finds that the deviation would not substantially alter the character of the site plan or subdivision or substantially impair the intent and purpose of the Master Plan or this chapter, the deviation may be permitted.

### § 30-25. Waiver of Requirements.

It is recognized that in certain instances preexisting conditions or the uniqueness of a particular proposal may require the waiver of some of the standards set forth in this chapter. The Planning Board may consider, and for cause shown may waive, strict conformity with such of these detailed design standards as it deems fit. Any applicant desiring such action shall present with his or her application for the site plan or subdivision a list of all such waivers desired, together with reasons supporting the requested waivers.

### § 30-26. General Requirements.

- A. No site plan or subdivision shall be approved unless the Planning Board is satisfied that, as completed, there will be adequate potable water, drainage, shade trees, sewerage facilities and other utilities required to provide essential services to residents and occupants of the premises which are the subject of the application.
- B. All site plans and subdivisions shall be conditioned upon conformity with the "Surface Water Management" section of this chapter.
- C. Any site plan or subdivision may be conditioned upon the requirement of adequate measures to protect and conserve soil from erosion by any agent.

§ 30-27. Streets.

- A. All streets or roads which are designed to become part of the street or road system of the Borough of Mantoloking shall comply with the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-1.1 et seq.
- B. All streets or roads which are designed to become part of the street or road system of the Borough of Mantoloking shall be conterminous with existing streets at the same or greater widths. Dead end streets shall be avoided whenever possible. If their use is unavoidable, turnarounds having a minimum radius of fifty (50) feet shall be provided at the street end.
- C. The right-of-way width of any street shall be determined by its street classification according to the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-1.1 et seq.
- D. Site plans or subdivisions which adjoin or include existing streets that do not conform to the width requirements of this chapter shall dedicate additional width along either one (1) or both sides of the existing street. If the site plan or subdivision adjoins or includes one (1) side of the existing street only, one-half (1/2) of the required extra width shall be dedicated.
- E. Street grade shall be determined according to the RSIS, N.J.A.C. 5:21-4.19(a). Minimum street grade shall be one-half of one (0.5%) percent. Maximum street grade shall vary by street classification and may be increased if required by the terrain.
- F. Street intersections shall be governed by the RSIS, N.J.A.C. 5:21-4.19(b). Street intersections shall be as nearly at right angles as possible and in no case shall be less than seventy-five (75°) degrees. New intersections along one side of an existing street shall, if possible, coincide with an existing intersection on the opposite of each street. Where provided, offsets shall be at least one hundred fifty (150) feet between right-of-way centerlines. Sight triangles shall be in accordance with the RSIS.
- G. No street or road shall be submitted to the Borough Council for acceptance into the Borough road system until:
  1. The street or road is indicated as a public right-of-way on an approved and filed plan.
  2. The roadway has been improved by the construction of a paved surface conforming to Chapter 17, Streets and Sidewalks, § 17-1, Excavation of Streets, and any amendments thereto.
- H. Every roadway shall be curbed. The curb shall have a minimum top width of six (6) inches, a minimum depth of eighteen (18) inches, a minimum bottom width of eight inches (8), and shall extend six (6) inches above the paved gutter; concrete shall have a minimum compressive strength of four thousand (4,000) psi.
- I. All roadway excavation and embankment shall be constructed in accordance with the standard specifications of the New Jersey State Department of Transportation.

J. Streets shall be named only by resolution of the Borough Council.

§ 30-28. Blocks.

Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required in the area by this chapter, and to provide for convenient access, circulation, control and safety of the street traffic.

§ 30-29. Lots.

Lot dimensions and area shall not be less than the requirements of this chapter and shall in all respects comply with this chapter.

§ 30-30 Sanitary Sewer Plants and Collection Systems.

All applicants for site plan and subdivision approval shall be required to furnish proof of acceptance and approval from the Borough, County and State of an adequate sanitary sewerage collection system as governed by applicable law or regulations including, but not limited to, the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-1.1 et seq, especially N.J.A.C. 5:21-6.1 et seq.

All applicants shall be required to certify in writing that they have located the existing sewer lateral cleanouts prior to any construction or land disturbance on the site.

All applicants shall be advised that the Borough will make the connection to the sewer main in the street and extend the lateral to a cleanout located on or at the property line, and all such costs for this work shall be paid by the applicant.

§ 30-31. Electric, Telephone, Potable Water, Gas, Generators and Other Utilities.

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 aboveground utility installation shall be permitted. Any generator installed outdoors shall be located within the building envelope, with any utility platform not more than six (6) inches from the principal structure, 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. Notwithstanding anything contained in the Revised General Ordinances of the Borough of Mantoloking to the contrary, for the purposes of this subsection a generator shall be able to be operated to a maximum of sixty-five (65) decibels (dBA) based upon the manufacturers specifications. 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).

§ 30-32 Sidewalks.

A. In all site plans and subdivisions, the Planning Board may require that the applicant install concrete sidewalks with a minimum compressive strength of four thousand

(4,000) psi, along both sides of all new streets, as well as along all State, County and municipal streets, roads and highways where they form a boundary of the site plan or subdivision.

- B. All sidewalks referred to herein shall be located two (2) feet from the street, road or highway right-of-way line and within the right-of-way limits, thereby creating a two (2) foot wide strip of land between the sidewalk and the property line.
- C. Sidewalks shall be four (4) feet wide by four (4) inches deep. Sidewalks in driveway areas shall be six (6) inches deep and reinforced with six by six (6 x 6) inch welded wire mesh. All sidewalk construction shall otherwise be in accordance with the standard specifications of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-1.1 et seq., especially N.J.A.C. 5:21-4.18, and of the New Jersey Department of Transportation.
- D. All concrete for sidewalks shall have a strength of four thousand (4,000) psi.

#### § 30-33. Top Soil and Seeding.

In all site plans and subdivisions all lots shall be covered with a suitable stabilizing ground cover as approved by the Borough Engineer. Suitable ground cover includes both topsoil and seeding as well as the use of indigenous sand and indigenous plantings. This requirement shall not apply to critical areas. No lawn, vegetative ground cover or densely planted shrubbery shall be permitted within ten (10) feet of any bulkhead or of the mean high water line.

#### § 30-34. Shade Trees.

- A. Each applicant shall present with the site plan or subdivision map a written and signed statement of the number and kind of trees to be planted in order to provide adequate shade.
- B. Trees shall be of nursery stock quality of an approved species grown under the same climatic conditions as to the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use and durable under the maintenance contemplated.
- C. The average trunk diameter measured at a height of three (3) feet above the finished grade level shall be a minimum of one and one-half (1-1/2) inches, depending on good nursery practice with reference to the particular species to be planted.
- D. Trees shall be planted at maximum intervals of sixty (60) feet along both sides of the street and not nearer than five (5) feet from any sidewalk, curb, gutter or other right-of-way improvement as provided for in this chapter.
- E. All planting shall be done in conformity with good nursery and landscape practice.
- F. The species and location of trees shall be such that they will not interfere with utility facilities.

#### § 30-35. Surface Water Management.

- A. Applicability.
  - 1. No site plan approval, zoning variance, building permit, subdivision approval or approval for any on-site activity involving the alteration of ground cover or the alteration in the natural (or existing) runoff patterns, including but not limited to: siting

and construction of structures, construction of impervious surfaces, driveway paving, swimming pool construction, construction of roof areas, earth moving resulting in changes in existing contours, or removal of significant areas of vegetative cover, shall be granted without a condition that the development shall also be subject to the approval by the Borough Engineer of a Surface Water Management Plan before the permitted on-site activity (development) shall commence.

2. The Borough Engineer may waive the requirement of a Surface Water Management Plan based upon the Engineer's finding that there is no appreciable increase anticipated in rate or velocity of runoff from the site, based upon the Engineer's site inspection and review of plans submitted by the applicant.

3. Construction involving the repair or replacement of existing structures in kind shall not be exempt from the requirements of this section.

4. The Surface Water Management Plan shall address the management of flood waters with potential velocity impacts in the areas indicated as a "V" zone under the Borough's adopted Flood Insurance Rate Map as issued by FEMA, inclusive of associated impacts of adjacent properties from diversion of flood waters around structures and potential debris from proposed structures on the site.

B. General Standards.

1. The stormwater management provisions of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-7.1 et seq., shall supersede the provisions of this chapter, where the RSIS is applicable. The provisions of this chapter shall govern where they do not conflict with the RSIS.

2. The rate and velocity of runoff from the site following completion of the disturbance, alteration in the ground cover, building modification, or alteration in the natural (or existing) runoff patterns shall not exceed that which would result under total coverage in a brush/weed/grass mixture in good hydrologic condition, as defined by USDA Soil Conservation Service Standards, TR-55 or latest technology. The rate and velocity of runoff resulting from existing cover can be used to compare the rate and velocity of runoff from the site following completion of the proposed activity, only if it can be demonstrated that existing cover does not cause excessive runoff onto adjacent properties which results in damage or degradation of the adjacent properties.

3. Maximum use shall be made of presently existing and natural surface water runoff control devices or areas such as existing storm sewer systems, vegetative cover, favorable grading, as well as any proposed retention structures.

4. To the greatest possible extent, the Surface Water Management Plan shall avoid the concentration of surface water flow and shall provide for dissipation of velocities.

5. The Borough recognizes that, in certain cases, fill is placed at the perimeter of structures elevated above existing grade. In no case shall fill be placed at slopes exceeding three to one (3:1) (horizontal to vertical). The applicant must also demonstrate that there is sufficient buffer area between the base of the fill and any adjacent property to mitigate the increased rate and velocity of the runoff from the slopes of the embankment; or surface water runoff shall be otherwise controlled to the satisfaction of the Borough Engineer.

C. Design Standards. For engineering review by the Borough Engineer, the following standards shall apply:

1. For calculating runoff and controls, the USDA Soil Conservation Service Methods, TR-55 or latest technology, shall be used. The site shall be evaluated, at a minimum,

based upon a two (2) year twenty-four (24) hour storm. See the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-7.2.

2. In lieu of computing the differences in existing and proposed surface water runoff, the applicant may propose a surface water retention structure which will provide 0.25 CF of storage volume per square foot of total impervious surfaces. This simplified method of computation will not necessarily be acceptable to demonstrate that the proposed activity does not result in damage or degradation of adjacent properties. For example, in the case where vegetated areas are altered in addition to the construction of impervious surfaces, the applicant must demonstrate that the alteration of vegetated area does not cause an increase in the rate and velocity of surface water runoff, or the applicant must provide additional retention volume.

3. Existing drainage ways or storm sewers shall not be overloaded with increased runoff, sediment, or other pollution resulting from the proposed activity. The Surface Water Management Plan shall include calculations which demonstrate that any affected drainage way or storm sewer has sufficient capacity for runoff resulting from a two (2) year twenty-four (24) hour storm. The Rational Method shall be acceptable; however the Rational and Modified Rational Method shall not be utilized for design detention facilities for areas larger than one acre.

4. Innovative surface water runoff control and/or recharge devices may be proposed, such as rooftop storage, drywells, or roof drain infiltration trenches, provided they are accompanied by detailed engineering plans and calculations.

5. Connections to existing storm sewer systems within public rights-of-way or easements are prohibited.

6. The Surface Water Management Plan shall be designed such that the proposed activity does not unduly degrade the quality of surface waters. For example, vegetated areas with indigenous species shall be preserved to the maximum extent possible and/or vegetated areas shall be planted, preferably, with indigenous species.

7. The Surface Water Management Plan shall be designed to address impacts of diverted velocity flood water from the site to eliminate or minimize the introduction of structural debris into the flood stream and potential impacts to neighboring properties, according to the Code of Federal Regulations (CFR) Chapter 44 and associated FEMA guidelines.

D. Data Required.

1. The applicant shall submit a plan for Surface Water Management, along with any Site Plan Application, Subdivision Application, or Building Permit Application.

2. The Surface Water Management plan shall contain sufficient information to evaluate the effects of the proposed activity on adjacent properties including, but not limited to:

(a) Lot and block numbers of the site as shown on the current Tax Map of the Borough.

(b) Name and address of the owner of the land.

(c) Site Topography. All topography shall use the NGVD 1988 or the appropriate conversion must be noted on the plan. (Minimum one [1] foot contours).

(d) Topography (minimum one [1] foot contours) of adjacent properties or rights-of-way sufficient to evaluate the effects of the proposed activity, or, at a minimum, a ten (10) foot width around the perimeter of the property.

(e) Location, description, and quantification of significant natural and as-built features on, and surrounding, the site.

- (f) Location, description, and quantification of proposed changes to the site.
- (g) Proposed measures for Surface Water Management including detailed computations and narrative.
- (h) Flow diagram of diverted flood waters on and through the site and adjacent properties.

E. Review and Approval.

1. Five (5) copies of the Surface Water Management Plan shall be submitted to the Zoning Officer.
2. Surface Water Management Plans shall be approved by the Borough Engineer. The Borough Engineer's consideration of applications shall be guided by, but not limited to, the following factors:
  - (a) The suitability of the applicant's proposed surface water management measures, devices and planning techniques, whether involving on-site or off-site measures or some combination thereof in respect to the total surface water runoff, velocities and rates of discharge which the applicant's proposed construction or land disturbance may generate;
  - (b) Existing topography, present vegetation and hydrologic and hydraulic factors;
  - (c) The design storm;
  - (d) Natural drainage flow;
  - (e) Land uses in the immediate vicinity of the site;
  - (f) Any other applicable or relevant environmental and resource protection ordinances, statutes and regulations;
  - (g) Water quality considerations; and
  - (h) The Surface Water Management Plan shall be signed and sealed by a Professional Engineer licensed in the State of New Jersey.

F. Inspection.

1. The installation of an approved Surface Water Management Plan (SWMP) shall be inspected by the Borough Engineer, or his/her authorized representative, at two (2) distinct times during construction, namely: (1) upon excavation of the trench and placement of the filter fabric; and (2) prior to surface restoration above the trench.
2. Applicant shall, in addition to the application fee, pay an inspection fee as set forth in Appendix C.
3. Approval of a SWMP will not be issued until the inspection fee has been paid.

§ 30-36. Off-Street Parking Design.

In the residential and business zones, there shall be provided off-street parking spaces in accordance with the following requirements:

- A. Each parking space shall measure nine (9) feet in width by eighteen (18) feet in length. Parking spaces for people with disabilities shall be in accordance with the New Jersey Uniform Construction Code (N.J.A.C. 5:23) or the Americans with Disabilities Act, as applicable. See N.J.A.C. 5:21-4.15.B
- B. All required parking spaces, opened or closed, shall be located on the same lot as the use to which such spaces are accessory.
- C. Every parcel of land hereinafter used as a public or private parking area for four (4) or more cars, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

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1. Off-street parking areas shall be oriented to, and within a reasonable walking distance of, the buildings they are designed to serve.
2. Access to parking lots shall be designed so as not to induce queues on travel ways and to provide adequate pedestrian circulation and safety. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements specified below. Only one (1) way traffic shall be permitted in aisles serving single-row parking spaces places at an angle other than 90°.

<b>3. Parking angle (in degrees)</b>	<b>Aisle width (in feet)</b>
30	12
45	13
60	18
90	24

4. Where sidewalks occur in parking areas, parked vehicles shall not overhang or extend over the sidewalk unless an additional two (2) feet of sidewalk width are provided to accommodate such overhang.
5. Screening and landscaping of off-street parking areas for four (4) or more vehicles shall include screening on the side or sides which adjoin residential lots. This provision applies to the parking of four (4) or more vehicles "side to side." For the purpose of off-street parking, screening shall be no less than five (5) feet in width and at least eight (8) feet in height. The Zoning Officer shall encourage the use of native species of vegetation which require less fertilization and watering than non-native species.
6. No off-street parking or part thereof for four (4) or more vehicles shall be closer than ten (10) feet to any dwelling located on the adjoining lot, and no closer than five (5) feet to any side yard lot line.
7. All off-street parking shall be graded and drained in accordance with the provisions of the Surface Water Management Plan section of this chapter.
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.
9. Parking spaces shall be located at least seven (7) feet from the edge of pavement or three (3) feet from the edge of a sidewalk, whichever is greater.

10. Driveways shall be no closer than twenty-five (25) feet from any roadway intersection, measured from the point where the two (2) edges of pavement or curb intersect.

D. Minimum required off-street parking spaces shall be as follows:

1. Dwellings in residential zones: one and one-half (1.5) spaces for each single-family dwelling with no more than two (2) bedrooms; two (2) spaces for each single-family dwelling with up to three (3) bedrooms, two and one-half (2.5) spaces for each four (4) bedroom single-family dwelling; and three (3) spaces for each dwelling of five (5) bedrooms or more.

2. In the business zone, one (1) space for each unit in two (2) family dwellings.

3. All other uses in business zones shall provide one (1) space for each two hundred (200 S.F.) square feet of gross floor area (or land area under use.)

#### § 30-37. Intersections.

At the intersection of two (2) streets, there shall not be erected or caused to be maintained any hedge, fence, foliage or wall higher than thirty (30) inches above the higher crown of the two (2) roads on any lot within the area formed by two (2) right-of-way lines bounding the lot or the projection of such lines and by a line connecting the point on each street line twenty-five (25) feet from the intersection of the street lines. In the case of development or redevelopment of any corner lot subsequent to the adoption of this chapter, the issuance of a Zoning Permit shall be conditioned upon the grant of a site triangle easement from the owner to the Borough. Sight triangle easements shall include the area on each street corner that is bounded by the line which connects the sight or connecting points located on each of the right-of-way lines of the intersecting street twenty-five (25) feet from the point of intersection of the street lines. The planting of trees or other plantings, or the location of structures exceeding thirty (30) inches in height that would obstruct the clear sight across the area of the easements, shall be prohibited, and a public right-of-entry shall be reserved for the purpose of removing any object, material or otherwise, that obstructs the clear sight.

#### § 30-38 Screening.

A. Prior to the construction of any building or any structure in the business zone other than a single-family residence, or a business use in a residential zone, there shall be planted, and thereafter maintained, a dense screen, not less than fifteen (15) feet in width and not less than eight (8) feet in height, along all property lines adjoining lands which are zoned residential.

B. Screening of off-street parking areas shall be not less than five (5) feet in width and not less than eight (8) feet in height.

C. Screening shall be properly installed and maintained in good condition under the supervision of the Zoning Officer. The Zoning Officer shall encourage the use of native species of vegetation which require less fertilization and watering than non-native species. If upon inspection it is determined that the screening material is not being maintained in a satisfactory condition, the owner shall be notified in writing and ordered to correct the negligent or improper maintenance within thirty (30) days. In the event that any plantings required by this chapter fail to live or be maintained at a height of at least eight (8) feet, they shall be replaced by the owner at the owner's sole

expense. Any failure on the part of the owner to comply with such a notice shall be deemed a violation of this chapter and shall be subject to the penalties of this chapter.

§ 30-39. Lighting, Exterior.

- A. No light source generated or initiated upon or from any lot within the Borough shall be placed or maintained so as to allow the glare or illumination thereof to constitute a nuisance to persons upon any other lot or any public area within the Borough.
- B. The emission of light with a measured level of strength or illumination greater than 0.5 maintained foot candles measured at any point along the lot boundary line at grade, or at any higher elevation, shall be conclusive proof that the light source or sources in question constitute a nuisance in violation of this chapter.
- C. The level of illumination shall be ascertained by the methodology and/or devices generally accepted and/or employed by the Illumination Engineering Society of North America.
- D. The strict enforcement of this subsection may, by resolution of the Governing Body of the Borough of Mantoloking, be suspended to accommodate seasonal (holiday) lighting upon such terms, conditions and for such durations as may be deemed appropriate by the Borough Council.
- E. The provisions of this chapter shall be subject to the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-1.1 et seq., particularly N.J.A.C. 5:21-4.11

§ 30-40 Temporary Facilities.

- A. Permits shall be obtained from the Zoning Officer for temporary placement of dumpsters, construction trailers, storage trailers, modular temporary storage units and sanitary waste facilities on any lot within the municipality.
- B. Prior to the placement of any temporary construction facility within the Borough, an application, and a plan identifying the proposed location of the temporary facilities and the proposed duration of use, shall be submitted to the Zoning Officer for approval.
- C. Such facilities shall be placed within the building envelope whenever possible. In no event may any such facility be placed on sidewalks or other public property or within ten (10) feet of any property line of the lot.
- D. It shall be the applicant's responsibility to maintain such facilities in a neat and sanitary condition at all times and so as not to become a nuisance to abutting or nearby property owners. The Zoning Officer may revoke the permit, after notice to the permit holder, if the facility is deemed to be a nuisance.
- E. Only one such facility of each type shall be permitted on the premises at any one time, in addition to a portable sanitary facility.
- F. All permits for temporary facilities shall be revocable by the Zoning Officer upon cessation of continuous construction activity or such other approved use, subject to terms and conditions of the approved permit.
- G. No temporary facility shall be utilized for habitation and shall not include plumbing, heating, cooling or electrical equipment or devices of any nature.
- H. Any temporary structure which, in the opinion of the Construction Official or the Chief of Police, shall constitute a hazard to the safety of persons or property, shall be removed immediately, at the expense of the permit holder.

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- I. Applicants for a temporary facility permit shall complete the application form and submit it to the Zoning Officer with their permit/application fee, twenty-five (\$25.00) dollars. Fees are not refundable.
- J. No temporary facility may be used to mount a sign for any advertising purpose. A temporary facility may include identification information which shall not exceed two and one-half (2.5) square feet in size.
- K. No Certificate of Compliance shall be issued until all temporary facilities have been removed from the site.

§ 30-41. 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 Zoning Officer prior to the disturbance of any land.

§ 30-42. Signs.

- A. Residential Zones. Such signs as may be customarily utilized to identify the owner or occupant of the premises shall be permitted. In addition to an identifying sign, a residence may display not more than one (1) sign notifying that the premises are protected by electronic alarms, and not more than one (1) sign advertising the premises for sale or lease. No sale or lease sign shall exceed a total of two and one half (2.5 S.F.) square feet in area. No alarm sign shall exceed one (1 S.F.) square foot in area. In the case of lot frontage on more than one (1) street, multiple signs may be permitted at the discretion of the Borough's Zoning Officer.
- B. Garage Sale Signs. A sign advertising a garage sale is permitted provided the following requirements have been satisfied:
  - 1. A garage sale permit application has been filed, including an owner affidavit stating that no property other than that of the owner shall be for sale;
  - 2. The garage sale permit fee has been paid (See Appendix C of this chapter);
  - 3. The Zoning Officer has granted a Garage Sale Permit;
  - 4. Signs do not exceed two and one half (2.5 S.F.) square feet in area;
  - 5. Signs are posted and removed within two (2) days from posting; and
  - 6. A maximum of two (2) garage sales per property, per year shall be permitted. No sales shall be permitted on Memorial Day weekend or on Saturdays, Sundays or holidays, from June 15th to September 15th.
- C. Personal Property Sale Signs. Personal property "For Sale" signs may be permitted provided the personal property being sold is owned by the real property owner. No more than two (2) personal property sale signs per lot shall be permitted at the same time. Each sign shall not exceed two and one half (2.5 S.F.) square feet in area. Personal property sales shall be occasional and incidental.
- D. Business Zone. Signs not exceeding four (4 S.F.) square feet are permitted. Such signs in the business zone shall be entirely supported from the building structure and shall not be illuminated directly or indirectly. There shall be only one (1) sign for each commercial establishment in the business zone, whether for purpose of advertising the business or for advertising sale or lease of the premises.


  
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E. Snipe Signs. Snipe signs shall not be permitted.

§ 30-43. Wireless Telecommunication Facilities.

- A. Wireless telecommunications facilities shall be permitted only in the Public Use zone on Lot 4, Block 34.
- B. Wireless telecommunications facilities shall be limited to a monopole construction
- C. Wireless antenna arrays shall be flush mounted to the monopole.
- D. A wireless telecommunications facility shall not exceed sixty (60) feet in height above existing grade.
- E. All bulk regulations applicable to accessory structures shall apply to wireless telecommunications facilities. Installation of a wireless telecommunications facility shall be subject to such further conditions for the public health, safety and welfare as may be required by the Zoning Officer. Such conditions may include, for example, fencing, screening, lighting, parking, requirements to minimize the visual impact of the monopole, liability insurance, and compliance with FCC rules.

**ARTICLE 7. Fees**

§ 30-44. Fees.

- A. Development Application Fee Schedule. The applicant, at the time of filing an application or appeal, or as otherwise provided herein, shall deposit with the Zoning Officer, in cash or certified check made payable to the Borough of Mantoloking, an amount determined by the schedule set forth in Appendix C to this chapter. The application fees set forth in the fee schedule, other than escrow fees, shall be nonrefundable and are for the purpose of offsetting in-house administrative costs, exclusive of expenses for professional consultants. Applications requiring a combination of approvals such as subdivision, site plan, and/or variance, shall pay a fee equal to the sum of the fees for each required approval.
- B. Escrow Fees.
  - 1. The escrow fees required by the fee schedule set forth in Appendix C to this chapter shall be for the purpose of reimbursing the Borough for direct fees, costs, charges and expenses of professional consultants retained by or on behalf of the Borough, its boards or agencies, in reviewing and processing development applications and in the evaluation and design of municipal services and facilities necessary to meet the needs of a proposed project. The term "professional personnel" and "professional services" shall include the services of a duly licensed engineer, surveyor, planner, attorney, realtor, appraiser, or other expert whose services would assist in ensuring that an application meets the performance standards of this chapter.
  - 2. Escrow fees required by the fee schedule shall be deposited with the Borough at the time of filing the application for development. Escrow fees shall be payable in cash or certified check, separate from amounts paid for application fees. Escrow fees shall be deposited and shall remain in an interest bearing escrow account, pursuant to N.J.S.A. 40:55D-53.1. Escrow accounts shall be segregated as to each application.

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3. All costs, expenses, charges and fees incurred by the Planning Board or other agency of the Borough for professional services which are incurred in relation to a particular project shall be charges to the project's escrow account. If the fees for professional services exceed the amount of the escrow fee, the applicant shall be liable for the payment of the deficiency which shall be immediately due and owing. If the amount of the escrow fee exceeds the actual cost of professional services, the applicant shall be entitled to a refund of amounts remaining in the escrow account.
4. All fees for professional services charged to the escrow account shall be pursuant to vouchers from the professionals stating the hours spent, the hourly rate, and the expenses incurred. No professional personnel submitting charges to the Borough for any services referred to in this subsection shall charge at any higher rates or in any different manner than would normally be charged the Borough for similar work as ascertained by the professional's contract of employment, if any, or by the provisions of the Borough's salary ordinance, if applicable.
5. The Borough shall render a final written accounting to the applicant on the uses to which the escrow account was put, and shall, on written request, provide copies of the professionals' vouchers to the applicant.
6. When an escrow account has been depleted by two-thirds (2/3) of the original escrow fee, it shall be replenished by an additional one-third (1/3) of the original escrow fee

**C. Zoning Permit Fees.**

1. Applicants for zoning permits shall submit, with each application, the fees as set forth in Appendix C to this chapter. Applications requiring a combination of approvals such as zoning, pool, fence and deck, shall pay a fee equal to the sum of fees for each required approval.
2. In the event an application for a permit is returned to the applicant due to insufficient information, or an application is denied for noncompliance with the land use regulations, a resubmission fee, equal to the initial application fees, shall be submitted to cover the administrative cost of another review. This applies to each and every resubmission.

**Article VIII Violations and penalties**

**§ 30-45. Penalties.**

- A.** Any person, firm or corporation that violates any provisions of this chapter shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be subject to a fine not exceeding \$1,000 or to a term of imprisonment in the County Jail not to exceed 90 days or a period of community service not exceeding a 90 days, or any combination thereof.
- B.** Each day that such violation exists shall constitute a separate offense. A violation as to each lot shall constitute a separate offense.
- C.** The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in

violation of this chapter shall be placed or shall exist or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation engaged in connection therewith and who assists in the commission of any such violation, shall each be guilty of a separate violation, and upon conviction, shall each be liable for the fine and/or imprisonment or both specified above.

D. If any building or structure is erected, constructed, altered, moved or converted; or any building, structure or land is used in violation of, or contrary to the provisions of this chapter, the Borough may institute an action to enjoin or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use.

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LAND USE REGULATIONS  
30 Attachment 5

Appendix B  
Bulk Standards  
Borough of Mantoloking, Ocean County, New Jersey  
Chapter 30, Land Use Regulations

[Ord. No. 465, Ord. No. 470, Ord. No. 527 § 2; Ord. No. 544 § 15; Ord. No. 578 § 2; Ord. No. 2013-617; Ord. No. 2013-624; Ord. No. 2013-629; Ord. No. 2013-633; Ord. No. 652-2015; Ord. No. 660-2016; Ord. No. 669-2017 §§ 2, 3; Ord. No. 673]

Zone	Lot Requirements							Principal Building							Accessory Structure			
	Min. Lot Size	Min. Street Frontage	Min. Lot Depth	Lot Coverage <sup>1</sup>	Min. Front Yard Setback <sup>3,7,8</sup>	Min. Interior Side Yard Setback	Min. Corner Side Yard Setback <sup>5</sup>	Min. Interior Rear Yard Setback	Min. Street Rear Yard Setback	Vertical Building Envelope <sup>9</sup> , 10, 11, 12	Maximum Number of Habitable Stories	Second Habitable Floor to First Habitable Floor Ratio	Min. Side Yard Setback	Min. Rear Yard Setback	Min. Yard Abutting a Street Setback <sup>5</sup>	Min. Yard Abutting the Bay Setback	Max. Accessory Structure Height	
	Sq. Ft.	Feet	Feet	Feet	Feet	Feet	Feet	Feet	Feet	Stories	Feet	Feet	Feet	Feet	Feet	Feet	Feet	
R-1 <sup>9</sup>	25,000	100	250	2	604	15	15	50	32	2.5	80%	15	25	25	25	15	15	
R-2A	20,000	100	150	2	35	10	15	50	30	2.5	80%	10	10	15	25	15	15	
R-2B <sup>9</sup>	20,000	70	200	2	604	10	15	25	32	2.5	80%	10	25	25	25	15	15	
R-3A	15,000	100	150	2	25	10	15	25	30	2.5	80%	10	10	15	25	15	15	
R-3B <sup>9</sup>	15,000	70	200	2	604	10	15	50	32	2.5	80%	10	25	25	25	15	15	
R-3C	13,000	70	190	2	604	10	15	50	32	2.5	80%	10	25	25	25	15	15	
R-4A	10,000	70	100	2	25	10	15	20	30	2.5	80%	10	10	15	25	15	15	
R-4B	10,000	60	100	2	25	10	15	20	30	2.5	80%	10	10	15	25	15	15	
R-5A	7,500	70	100	2	25	10	15	20	30	2.5	80%	10	10	15	25	15	15	
R-5B	7,000	50	100	2	25	10	15	20	30	2.5	80%	10	10	10	25	15	15	
R-6A	5,000	70	70	2	14	10	10	10	30	2.5	80%	10	10	10	25	15	15	
R-6B	5,000	50	75	2	15 <sup>7</sup>	10	10	10	30	2.5	80%	10	10	10	25	15	15	
B	6,000	40	100	2	15	0	0	10	30	2.5		10	10	10	25	15	15	

- 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 45%.
- Lot coverage is 50% of lot area up to 12,000 SF, plus 12% of excess area over 12,000 SF and under 20,000 SF, plus 14% of excess over 20,000 SF, up to a maximum of 6,500 SF of coverage.
- The front yard setback of any new or altered building shall be not less than the average front yard setback of existing buildings on lots of similar depth within two hundred (200) feet of the lot which is the subject of development, on the same frontage. In the event that one (1) building or structure skews the average front yard setback by greater than fifteen percent (15%), that building or structure shall be excluded from the average calculation. However, in no event shall the front setback be less than the scheduled minimum front yard setback for the subject lot. (Ord. No. 669-2017)
- The front yard setback for oceanfront properties is measured between the Dune Reference Line/Seawall Line as shown on the official Borough Tax Map and the building line.
- On corner lots, the provisions for sight triangles would prevail.
- Reserved. (Deleted by Ord. No. 660-2016)
- The minimum front yard setback for the waterfront lots in the R-6B Zone is twenty-five feet (25').
- The minimum front yard setback for lots with front yards on Ocean Avenue in the R-2B Zone is fifty feet (50').
- If two or more lots consolidate, separate bulk standards apply. See subsection 30-6.16 for requirements.

## CODE

10. The minimum first floor finished elevation shall be the elevation provided by the Best Available Flood Hazard Data plus 3 feet for the Borough's adopted freeboard, plus an additional 2.0 feet in V Zone and Coastal A Zone areas for floor supporting horizontal structural elements. The maximum first floor finished elevation shall be the higher of up to 9' above the crown of the road for all lots or Elevation 22 for all ocean front lots, Elevation 14 for all bay front lots or the minimum flood code Elevation for lots within the Coastal A Zone which are not bay front lots or Elevation 12 for all non ocean front, non bay front lots, or lots not within the Coastal A Zone which are not bay front lots; plus the Vertical Building Envelope Modification Factor. For Block 25, the maximum first floor finished elevation shall be the higher of up to 9' above the crown of the road or Elevation 16. (Datum NAVD 88).
11. On existing structures being raised, the existing Vertical Building Envelope may be maintained unless a floor area increase is proposed to the existing structure above the first finished floor, subject to the criteria of Footnote #10 of these Bulk Standards.
12. The Vertical Building Envelope Modification Factor is the difference between the Vertical Building Envelope per these Bulk Standards less the existing or proposed Vertical Building Envelope. This factor cannot be less than zero (0).
13. Lagoon front lots will be considered bay front lots for Bulk Standard purposes.