

**DRAFT NO.1 UPDATED–5/04/2021 THE BOROUGH OF MANTOLOKING  
MAYOR AND COUNCIL  
MAY 18, 2021**

**AGENDA – CAUCUS AND REGULAR BUSINESS MEETING  
MANTOLOKING ZOOM MEETING- 5:30 P.M.**

Click on the link below, copy and paste the link into your web browser or go directly to the zoom website at <https://zoom.us/> and download to your computer. You will be asked to enter the Meeting ID # and passcode provided below.

**Join Zoom Meeting**

<https://us02web.zoom.us/j/82382888497?pwd=THRHK2c2M2JhOWMzeXNkS3RwTjBkUT09>

**Meeting ID:** 823 8288 8497

**Passcode:** 024162

**Call In Phone Numbers:**

1- 646-558- 8656 US (New York)

1- 301-715- 8592 US (Washington D.C)

1- 312-626- 6799 US (Chicago)

1- 669-900- 9128 US (San Jose)

1- 253-215- 8782 US (Tacoma)

1- 346-248- 7799 US (Houston)

**Meeting ID:** 823 8288 8497, **Passcode:** 024162

One tap mobile

+16465588656,,82382888497#,,,,\*024162# US (New York)

+13017158592,,82382888497#,,,,\*024162# US (Washington D.C)

**CAUCUS MEETING**

**CALL TO ORDER:**

**OPEN PUBLIC MEETING STATEMENT:** Mayor E. Laurence White will read the following statement:

In compliance with the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting of the Mantoloking Borough Council has been advertised in the manner provided by law.

**ROLL CALL:**

**A. REVIEW OF REGULAR MEETING AGENDA**

**B. BOROUGH COUNCIL DISCUSSION ITEMS FOR NEXT MONTHS AGENDA.**

Administration & Legal Committee- Councilwoman O’Mealia, Councilman Gillingham, Councilman Batcha

Finance Committee - Councilman Amarante and Councilman Gillingham

Land Use Committee- Councilman Nelson, Councilman Batcha, Councilwoman Benz

Public Safety Committee – Councilman Gillingham and Councilwoman O’Mealia

Public Works Committee- Councilman Amarante and Councilman Nelson

Recreation Committee-Councilman Batcha, Councilwoman Benz, Councilman Amarante

**C. PUBLIC COMMENT PERIOD-** State your name and address for the record. Once you have finished speaking, please place your phone or computer audio on mute.

**ADJOURN CAUCUS MEETING:**

MOTION: \_\_\_\_\_

SECOND: \_\_\_\_\_

ALL IN FAVOR: \_\_\_\_\_

**REGULAR BUSINESS MEETING**

1. **CALL TO ORDER:**

2. **OPEN PUBLIC MEETING STATEMENT:** Mayor White will read the following statement:

In compliance with the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting of the Mantoloking Borough Council has been advertised in the manner provided by law.

3. **ROLL CALL:**

4. **PLEDGE OF ALLEGIANCE:** Mayor White will lead the assembly in the Pledge of Allegiance.

5. **RESOLUTION NO. 2021-77**

**RESOLUTION: MINUTES OF PREVIOUS MEETINGS**

Caucus/Regular Business Meeting- April 20, 2021

**RESOLVED**, the Mantoloking Borough Council approves the minutes as distributed.

**ROLL CALL VOTE RESOLUTION 2021-77**

6. **PRIVILEGE OF THE FLOOR:** Mayor White will open the meeting for public comment and questions about the agenda. State your name and address for the record. Once you have finished speaking, please place your phone or computer audio on mute.

7. **FINANCE COMMITTEE (Budget, Grants, Reports, FEMA)-** Chairman Amarante will present the monthly reports.

**RESOLUTION NO. 2021-78**

**RESOLUTION THE REPORT OF THE MUNICIPAL FINANCE OFFICER**

“SEE ATTACHED REPORT”

**RESOLUTION NO. 2021-79**

**RESOLUTION: PAYMENT OF BILLS**

**WHEREAS**, the municipal finance officer has presented

- A list of bills in the amount of \$163,305.94 with the recommendation they be paid, and
- A list of bills in the amount of \$96,105.11 that have been paid with the approval of the municipal clerk and the mayor, now, therefore, be it

**RESOLVED**, the council approves the payment of all the bills and directs that a copy of these lists be attached to and made part of the minutes of this meeting.

**RESOLUTION NO. 2021-80**

**RESOLUTION TO ADOPT TEMPORARY EMERGENCY APPROPRIATIONS #4**

**WHEREAS**, N.J.S.A. 40A: 4-20 provides that an addition to temporary appropriations necessary for the period prior to the adoption of the budget and regular appropriations, the Governing Body may, by resolution adopted by 2/3 vote of the full membership thereof, make emergency temporary appropriations for any purpose for which the appropriations may lawfully be made for the period between the beginning of the current fiscal year and the date of the adoption of the budget for said year.

**WHEREAS**, the total emergency temporary resolutions adopted in the year 2021

pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A: 4-20) including this resolution total \$1,657,875.00.

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Mantoloking, that in accordance with the provisions of N.J.S.A. 40A: 4-20, the Chief Financial Officer be authorized to make the following emergency temporary budget appropriations in the 2021 current fund temporary budget and that said amounts be included under the correct headings in the municipal budget as adopted.

**BE IT FURTHER RESOLVED** that one certified copy of this resolution be filed with the Director of the Division of Local Government Services and one certified copy with the Chief Financial Officer.

<u>DEPARTMENT</u>	<u>S&amp;W</u>	<u>OE</u>
Legal		\$ 25,000.00
Engineering		\$ 10,000.00
Construction	\$ 15,000.00	
Plumbing Sub-Code Official	\$ 500.00	
Fire Sub-Code Official	\$ 500.00	
Electrical Sub-Code Official	\$ 500.00	
Police	\$ 75,000.00	\$ 10,000.00
Fire		\$ 6,000.00
Municipal Prosecutor		\$ 1,000.00
Road Repair	\$ 10,000.00	
Garbage & Trash Removal		\$ 15,000.00
Beach Access	\$ 6,000.00	
Beach Maintenance		\$ 15,000.00
Gasoline		\$ 10,000.00
Bond Principal		\$215,000.00
Bond Interest		\$151,575.00
<b>TOTAL</b>	<b>\$107,500.00</b>	<b>\$458,575.00</b>
<b>GRAND TOTAL</b>	<b>\$ 566,075.00</b>	

**ROLL CALL VOTE RESOLUTIONS 2021- 78 through 2021- 80**

**PUBLIC HEARING** – Mayor White will open the floor for comments on Ordinance No. 721

**ADOPTION OF ORDINANCE NO. 721**

**CALENDAR YEAR 2021**

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A  
CAP BANK  
(N.J.S.A. 40A: 4-45.14)**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 1.0% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,

**WHEREAS**, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

**WHEREAS**, the Mayor and Council of the Borough of Mantoloking in the County of Ocean, finds it advisable and necessary to increase its CY 2021 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

**WHEREAS**, the Mayor and Council of the Borough of Mantoloking hereby determines that a 3.5% increase in the budget for said year, amounting to \$161,615.27 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

**WHEREAS**, the Mayor and Council of the Borough of Mantoloking hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Mantoloking, in the County of County, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2021 budget year, the final appropriations of the Borough of Mantoloking shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$161,615.27, and that the CY 2021 municipal budget for the Borough of Mantoloking be approved and adopted in accordance with this ordinance; and,

**BE IT FURTHER ORDAINED**, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance upon adoption, with the recorded vote included hereon, be filed with said Director within 5 days after such adoption.

**ROLL CALL VOTE ORDINANCE NO. 721**

**RESOLUTION NO. 2021-85**

**RESOLUTION AUTHORIZING SELF-EXAMINATION OF BUDGET**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Borough of Mantoloking has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2021 budget year.

NOW THEREFORE BE IT RESOLVED by the governing body of the Borough of Mantoloking that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
  - a. Payment of interest and debt redemption charges
  - b. Deferred charges and statutory expenditures
  - c. Cash deficit of preceding year
  - d. Reserve for uncollected taxes
  - e. Other reserves and non-disbursement items
  - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
  - a. All estimates of revenue are reasonable, accurate and correctly stated,
  - b. Items of appropriation are properly set forth
  - c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

**ROLL CALL VOTE RESOLUTION 2021-85**

**RESOLUTION NO. 2021-81**

**RESOLUTION FOR ADOPTION OF MUNICIPAL BUDGET 2021**

BE IT RESOLVED by the Governing Body of the Borough of Mantoloking, County of Ocean that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes of the sums therein as set forth as appropriations, and authorization of the amount of \$4,137,248.00 for municipal purposes.

**Recorded Vote**

AYES:

NAYS:

ABSTAINED:

ABSENT:

**SUMMARY OF REVENUES**

1. General Revenues	
Surplus Anticipated	\$690,000.00
Miscellaneous Revenues Anticipated	1,130,410.82
Receipts from Delinquent Taxes	37,483.79
2. Amount to be Raised by Taxation for Municipal Purposes	4,137,248.00
<b>TOTAL REVENUES</b>	<b>\$5,995,142.61</b>

**SUMMARY OF APPROPRIATIONS**

5. General Appropriations:	
Within "CAPS"	
Operations Including Contingent	\$4,311,034.00
Deferred Charges and Statutory Expenditures - Municipal	539,298.00
Excluded from "CAPS"	
Operations - Total Operations Excluded from "CAPS"	295,149.82
Capital Improvements	138,174.00
Municipal Debt Service	366,575.00
Deferred Charges - Municipal	2,483.79
Judgments	40,000.00
Reserve for Uncollected Taxes	302,428.00
<b>TOTAL GENERAL APPROPRIATIONS</b>	<b>\$5,995,142.61</b>

IT IS HEREBY CERTIFIED that the within budget is a true copy of the budget finally adopted by resolution of the governing body on the 18th day of May, 2021. It is further certified that each item of revenue and appropriation is set forth in the same amount and by the same title as appeared in the 2021 approved budget and all amendments thereto, if any, which have been previously approved by the Director of Local Government Services.

Certified by me this 18th day of May, 2021, \_\_\_\_\_, Clerk

**ROLL CALL VOTE RESOLUTION NO. 2021-81**

**PUBLIC HEARING** – Mayor White will open the floor for comments on Ordinance No. 722

**ADOPTION OF ORDINANCE NO. 722**

**AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY  
APPROPRIATION IN THE AMOUNT OF \$60,000.00 FOR THE RECODIFICATION  
OF EXISTING ORDINANCES FOR THE BOROUGH OF MANTOLOKING,  
COUNTY OF OCEAN, STATE OF NEW JERSEY  
N.J.S.A. 40A:4-53**

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

Section 1. Pursuant to the Local Budget Law of New Jersey, and in particular N.J.S.A. 40A:53, a special emergency appropriation in the amount of \$60,000.00 is hereby authorized and made for the purpose of recodification of existing ordinances, for the Borough of Mantoloking, County of Ocean, State of New Jersey;

Section 2. The Borough is hereby authorized to finance such appropriation from surplus funds available or by issuing special emergency notes from time to time in accordance with the provisions of N.J.S.A. 40A:4-55, all as shall be determined by and pursuant to a resolution or resolutions of the Borough to be hereafter adopted. The authorization to finance the appropriation shall be provided for in succeeding annual budgets by the inclusion of at least 1/5 of the amount authorized pursuant to N.J.S.A 40A:4-55.

Section 3. In accordance with the requirements of N.J.S.A. 40A:4-53, a copy of this ordinance as finally adopted shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.

Section 4. This ordinance shall take effect after publication after final adoption, as provided by law.

**ROLL CALL VOTE ORDINANCE NO. 722**

8. **PUBLIC SAFETY COMMITTEE** (Police, Fire, First Aid, OEM, Court)- Chairman Gillingham will present the monthly reports.

**RESOLUTION NO. 2021-82**

**RESOLUTION: APPOINTMENT OF PERSONNEL – SEASONAL PART TIME HELP**

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

<b>Name</b>	<b>Position</b>	<b>Effective Date</b>	<b>Salary</b>
Lillian Hannon	Beach Checker	6/1/2021-9/15/2021	\$12.25
Kara Musto	Beach Checker	6/1/2021-9/15/2021	\$12.00
Dominick Nocero	Beach Checker	6/1/2021-9/15/2021	\$12.00
Michael Lanza	Beach Checker	6/1/2021-9/15/2021	\$12.00
Kenneth Blake	Beach Checker	6/1/2021-9/15/2021	\$12.25

**RESOLUTION NO. 2021-83**

**RESOLUTION:RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE PROMOTION OF PATROLMAN JACK NEARY TO SERGEANT**

**WHEREAS**, there is currently an opening in the position of Sergeant in the Borough of Mantoloking Police Department; and

**WHEREAS**, the Chief of Police has recommended the promotion of Patrolman Jack Neary to the position Sergeant; and **WHEREAS**, the governing body has determined that Patrolman Jack Neary is qualified for the appointment to the position of Sergeant; and

**WHEREAS**, it is the desire of the governing body to promote Jack Neary to the position of Sergeant in the Borough of Mantoloking Police Department.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Borough of Mantoloking as follows,

1. That the governing body does hereby promote Patrolman Jack Neary to the position of Sergeant in the Borough of Mantoloking Police Department, effective as of the May 18, 2021.
2. That Sergeant Jack Neary shall be paid in accordance with the applicable Collective Negotiations Agreement.
3. That a certified copy of this resolution shall be forwarded to the Chief of Police, Chief Financial Officer and Sergeant Jack Neary.

**ROLL CALL VOTE RESOLUTIONS 2021-82 and 2021-83**

**INTRODUCTION TO ORDINANCE NO. 724**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE BOROUGH CODE OF THE BOROUGH OF MANTOLOKING, SO AS TO AMEND CHAPTER 7 ENTITLED “TRAFFIC”**

**NOW, THEREFORE, BE IT ORDAINED**, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

**SECTION 1.** The Borough Code of the Borough of Mantoloking is hereby amended and

supplemented so as to amend Chapter 7, entitled “Traffic,” so as to amend §7-12 entitled “Parking time limited on certain streets” so as to add and amend the provisions pertaining to Lyman Street only as follows:

\*New text is identified in **bold underline**, text to be removed is identified as ~~strikethrough~~.\*

Lyman Street	Both	No Parking	N/A	West of intersection with Barnegat Lane to and including westerly street end
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Lyman Street	Both	No Parking	N/A	Between Route N.J. 35 (Ocean Avenue) and Barnegat Lane
Lyman Street*	South	<b><u>4 Hours Unrestricted</u></b>	<del>Between 9:00am and 5:00 pm</del> <b><u>N/A</u></b>	East of Route N.J. 35 (Ocean Avenue); the entire length
Lyman Street	North	No Parking	N/A	West of East Avenue <b><u>Entire length</u></b>
<b><u>Lyman Street</u></b>	<b><u>North</u></b>	<b><u>10 Minute (Designated spots only)</u></b>	<b><u>Between 10am-6pm, 3<sup>rd</sup> Saturday in June through Labor Day</u></b>	<b><u>West of East Avenue</u></b>

**SECTION 2.** The Borough Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend Chapter 7, entitled “Traffic,” so as to amend §7-39.1 entitled “Handicapped Parking on Streets” so as to amend the provisions pertaining to Lyman Street only as follows:

\*New text is identified in **bold underline**, text to be removed is identified as ~~strikethrough~~.\*

<del>Lyman Street</del>	<del>One space</del>	<del>Easterly terminus, north side</del>
Lyman Street	<b><u>Two spaces</u></b>	Easterly terminus south side

**SECTION 3.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5.** This ordinance shall take effect after second reading and publication as required by law.

**ROLL CALL VOTE ORDINANCE NO. 724**

**PUBLIC HEARING** – Mayor White will open the floor for comments on Ordinance No. 723

**ADOPTION OF ORDINANCE NO. 723**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE MUNICIPAL CODE OF THE BOROUGH OF MANTOLOKING, SO AS TO AMEND CHAPTER 3, ENTITLED “POLICE REGULATIONS”**

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

**SECTION 1.** The Municipal Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend Chapter 3 entitled “Police Regulations”, in order to amend § 3-1.4 entitled “Public Nuisances Prohibited” in order to add subsection h. which shall read as follows:

**h. Cannabis Consumption.**

**1. Definitions**

**CANNABIS ITEM**

Any item available for lawful consumption pursuant to the NJ Cannabis regulatory enforcement assistance and marketplace modernization act.

**INDOOR PUBLIC PLACE**

A structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility; patient waiting room of the office of a health care provider; child care center; race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

**2. Consumption of cannabis items in a public place unlawful.**

It is unlawful for any person over the age of 21 to consume, other than by smoking, vaping, or aerosolizing, any cannabis item in a public place, including any indoor public place, other than school property, or when not prohibited by the owner or person responsible for the operation of the public place.

**3. Violations and penalties.**

- A. Violations of this section shall be punished by a civil penalty of \$200.
- B. All fines and penalties under this chapter may be paid directly to the Municipal Court Administrator, unless otherwise indicated by the officer issuing the summons.

**SECTION 2.** The Municipal Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend Chapter 3 entitled “Police Regulations”, in order to add § 3-10 which shall be entitled “Possession and Consumption by Minors” and which shall read as follows:

**§ 3-10 Possession and Consumption by Minors.**

**§ 3-10.1 Definitions.**

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

**CANNABIS ITEM**

Any item available for lawful consumption pursuant to the NJ Cannabis regulatory enforcement assistance and marketplace modernization act.

**GUARDIAN**

A person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

**RELATIVE**

The underage person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

**§ 3-10.2 Consumption of alcoholic beverages by underage person on private property prohibited.**

It is unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage or a cannabis item, other than by smoking, vaping or aerosolizing, on private property.

**§ 3-10.3 Violations and penalties.**

- A.** Any person found guilty of violating the terms of this section involving alcoholic beverage activity shall, in the case of an adult under the legal age to purchase an alcoholic beverage, be subject to a fine of \$250 for a first offense and a fine of \$350 for any subsequent offense.
- B.** For a violation involving cannabis activity, in the case of an adult under the legal age to purchase cannabis items, shall be punished as follows:
  - 1. If the cannabis item possessed is an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items:
    - a. For a first offense: a civil penalty of \$100

- b. For a second offense: a civil penalty of \$200.
  - c. For a third or subsequent offense: a fine of \$350.
2. If the cannabis item possessed is an amount that exceeds what may be lawfully possessed by a person of the legal age to purchase cannabis items:
- a. For a first offense: a fine of \$250
  - b. For a second or subsequent offense: a fine of \$350.
- C.** In addition, the court may, upon a finding of guilt, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the New Jersey Motor Vehicle Commission stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Commission along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.
- D.** The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. The defendant shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.
- E.** If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this section. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

**§ 3-10.4 Exceptions.**

- A.** This section shall not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- B.** This section shall not prohibit the possession of alcoholic beverages by any underage person while actually engaged in the performance of employment by a person who was licensed under Title 33 of the revised statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management

program at a county vocational school or post-secondary educational institution; however, this article shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81, or any other section of law

against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

**§ 3-10.5 Underage possession or consumption; exemption from prosecution.**

**A.** An underage person and one or two other persons, if applicable, shall be immune from prosecution under this chapter prohibiting any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage or cannabis item on private property if:

- (1) One of the underage persons called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption or the consumption of a cannabis item;
- (2) The underage person who called 911 and, if applicable, one or two other persons acting in concert with the underage person who called 911 provided each of their names to the 911 operator;
- (3) The underage person was the first person to make the 911 report; and
- (4) The underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 911 call remained on the scene with the person under the legal age in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

**B.** The underage person who received medical assistance as provided in Subsection **A** of this section shall also be immune from prosecution under this chapter prohibiting the possession or consumption of an alcoholic beverage on private property.

**SECTION 3.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5.** This ordinance shall take effect after second reading and publication as required by law.

**ROLL CALL VOTE ORDINANCE NO. 723**

9. LAND USE COMMITTEE (Building, Zoning, Land Use Board, Flooding)- Chairman Nelson will present the monthly reports.
  
10. PUBLIC WORKS COMMITTEE (Public Works, Engineering, Code Enforcement)- Chairman Amarante will present the monthly reports.
  
11. ADMINISTRATION & LEGAL COMMITTEE (Administration, Personnel and Law, Insurance, Technology)- Chairwoman O’Mealia will present the monthly reports.
  
12. RECREATION COMMITTEE (Recreation, Beach, Beautification)- Chairman Batcha will present the monthly reports.

**INTRO TO ORDINANCE NO. 725**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE BOROUGH CODE OF THE BOROUGH OF MANTOLOKING, SO AS TO AMEND CHAPTER 10 ENTITLED “BEACH REGULATIONS”**

**NOW, THEREFORE, BE IT ORDAINED**, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

**SECTION 1.** The Borough Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend Chapter 10, entitled “Beach Regulations,” so as to amend §10-4.18 entitled “Other Prohibited Acts; Sleeping; Smoking” so as to amend subsection b. in its entirety so that it shall read as follows:

**b. Smoking in public places prohibited.**

1. The Governing Body recognizes the well-known health and safety risks posed by smoking and second hand smoke and finds that it is within the public interest to prohibit smoking in public buildings and public places as smoking in public places is inimical to the health, safety and welfare of the Borough’s residents.

2. “ Smoking” under this section is defined as the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe, including any handheld electronic device which vaporizes a liquid (e.g., e-cigarettes, e-cigs, electronic nicotine delivery systems, electronic non-nicotine delivery systems, personal vaporizers, PVs), or any other matter or substance which contains tobacco, marijuana, cannabis, cannabis item or any other matter that can be smoked.

3. In accordance with the terms of the "New Jersey Smoke Free Air Act," N.J.S.A. 26:3D-56 et seq., smoking and the use of electronic smoking devices is prohibited at all beaches and accessways within the Borough that are open and available to the public. Smoking is also prohibited within 15 feet of any beach ramp and accessway that is open and available to the public.

4. Violations of this section shall be subject to the penalties set forth at N.J.S.A. 26:3D-62, of not less than \$250 for the first offense, \$500 for the second offense, and \$1,000 for each subsequent offense.

**SECTION 2.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 4 .** This ordinance shall take effect after second reading and publication as required by law.

**ROLL CALL VOTE ORDINANCE NO. 725**

**13. MAYOR AND COUNCIL COMMENTS:**

**14. PUBLIC COMMENTS PERIOD:** State your name and address for the record. Once you have finished speaking, please place your phone on mute.

**15. RESOLUTION NO. 2021-84**

**RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING AN EXECUTIVE SESSION**

**WHEREAS**, the Open Public Meetings Act authorizes the Borough Council to enter into executive session to discuss certain matters pursuant to N.J.S.A 10:4-12; and

**WHEREAS**, the Borough Council desires to go into executive session to discuss matters related to Personnel-Borough Administrator Candidates, Anticipated Litigation- Land Use Matters; and

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, that the Council shall go into executive session to discuss the following items:

1. Personnel- Borough Administrator Candidates: N.J.S.A. 10:4-12(b)(8)
2. Anticipated Litigation- Land Use Matters: N.J.S.A. 10:4-12(b)(7)

**16. NEXT MEETING:** Caucus and Regular Business Meeting, Tuesday, June 15, 2021 Zoom Meeting.

**17. ADJOURNMENT:**