

**Borough of Matawan
Workshop Session
February 5, 2013**

A regular meeting of the Borough Council of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey on February 5, 2013. The meeting was called to order at 7:05 PM by Mayor Buccellato presiding. Mayor Buccellato called the meeting to order, pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice which was published in the *Asbury Park Press* on January 9, 2013, by sending notice to *The Independent*, and by posting. Mayor Buccellato requested a roll call.

On roll call the following members responded present:

Yes: Councilwoman Daly
 Councilman Fitzsimmons
 Councilwoman Gould
 Councilwoman Clifton
 Councilman Urbano
 Councilwoman Angelini

Also present was Pasquale Menna, Esq., Borough Attorney.

Mayor Buccellato asked everyone to stand for a moment of silence.

Mayor Buccellato asked everyone to stand in the Salute to the Flag.

Mayor Buccellato nominated Jennifer DeMarco as an Alternate Delegate to the Recreation Commission for an unexpired term said term to expire December 31, 2013. Mayor Buccellato requested a motion. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Council agreed. Motion passed.

Ms. Montfort informs she has forwarded copy Washington Engine Co. application for an ABC Social Affairs Permit for their annual St. Patrick's Day Parade to be held at 6:00 PM on March 14, 2013 to Mr. Menna and Matawan Police Department. She requested permission to sign the application. Mayor Buccellato requested a motion. Councilwoman Clifton made the motion, seconded by Councilman Fitzsimmons. Council agreed. Motion passed.

Councilwoman Clifton announced the Historic Sites Commission has received a \$5,190.00 grant for the Burrowes Mansion roof from the Board of Chosen Freeholders and the Historical Commission asking Council to match the grant monies to complete the project. Council agreed to pursue.

Workshop Items

Discussion of Property Maintenance & Fire Prevention Ordinances

Mayor Buccellato informed previously the Fire Prevention Official also acted as the Property Maintenance Official. Currently Fire Prevention regulations appear in the Property Maintenance code and vice versa. Tonight's introduction of Ordinances 13-04 and 13-05 expressly defines each department, its position and regulations.

Discussion of Forestry Ordinance

Mayor Buccellato related tree damage and loss of power due to Super Storm Sandy and other storms these past few months. After research and discussions with the State Department of Forestry, Community Forestry and the NJS Department of Environmental Protection, they introduced me to the Green Communities Grant Program providing me with an application. Participation in this Program requires a municipal forestry ordinance allowing an inventory and to assess possible hazardous trees. This ordinance will also update Chapter 24 – Shade Tree Commission removing the requirement for a tree conservation officer and authorizing the Shade Tree Commission to appoint a member to serve in this regard.

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Mayor Buccellato requested comments. There were no comments.

Old Business

None.

Consent Agenda

Mayor Buccellato read by title Resolutions 13-02-02 through and including 13-02-11 requesting a motion to approve en masse. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Mayor Buccellato questioned if the Applicant on Resolutions 13-02-10 and 11 have complied with Ordinance 12-14: An Ordinance Revision Chapter 4-9: Massage Parlors; Masseurs and Masseuses of the Revised General Ordinances of the Borough of Matawan, County of Monmouth, State of New Jersey. Ms. Montfort stated she will confirm with the Matawan Police Department. Mayor Buccellato requested Councilpersons Clifton and Urbano rescind their motion. They agreed. Mayor Buccellato requested a motion to hold Resolutions 13-02-10 and 13-02-11 pending confirmation of conformance with Ordinance 12-14: An Ordinance Revision Chapter 4-9: Massage Parlors; Masseurs and Masseuses of the Revised General Ordinances of the Borough of Matawan, County of Monmouth, State of New Jersey. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Council agreed. Motion passed.

Mayor Buccellato read by title Resolutions 13-02-02 through and including 13-02-09 requesting a motion to approve en masse. Councilwoman Clifton made the motion, seconded by Councilwoman Gould. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

**RESOLUTION 13-02-02
REDEMPTION OF TAX SALE CERTIFICATE
WEN LU
CERTIFICATE #11-00016**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #11-00016 which was sold to Wen Lu, 144-90 41st Ave., Apt. 515, Flushing, NY 11355; and

WHEREAS, Certificate #11-00016 has been paid and fully redeemed for the property owner, Block 14, Lot 11 otherwise known as 102 Atlantic Ave.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$2,151.27 and a Premium of \$100.00 to the above for the redemption of Tax Sale Certificate #11-00016.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-03
REDEMPTION OF TAX SALE CERTIFICATE
WEN LU
CERTIFICATE #11-00019**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #11-00019 which was sold to Wen Lu, 144-90 41st Ave., Apt. 515, Flushing, NY 11355; and

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WHEREAS, Certificate #11-00019 has been paid and fully redeemed for the property owner, Block 19, Lot 13 otherwise known as 25 Park Ave.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$1,172.79 and a Premium of \$100.00 to the above for the redemption of Tax Sale Certificate #11-00019.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-04
REDEMPTION OF TAX SALE CERTIFICATE
US BANK CUST FOR PROCAPITAL I, LLC
CERTIFICATE #11-00106**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #11-00106 which was sold to US Bank Cust for Procapital I, LLC, 50 S 16th St., Ste 1950, Philadelphia, PA 19102; and

WHEREAS, Certificate #11-00106 has been paid and fully redeemed for the property owner, Block 123, Lot 18 otherwise known as 51 Sapphire Lane.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$2,415.66 to the above for the redemption of Tax Sale Certificate #11-00106.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-05
REDEMPTION OF TAX SALE CERTIFICATE
INGENIOUS INTELLIGENCE BNC
CERTIFICATE #12-00010**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #12-00010 which was sold to Ingenious Intelligence BNC, 253 Main St., Suite 135, Matawan, NJ 07747; and

WHEREAS, Certificate #12-00010 has been paid and fully redeemed for the property owner, Block 9, Lot 8.01 otherwise known as 95 Main St.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$510.84 to the above for the redemption of Tax Sale Certificate #12-00010.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-06
REDEMPTION OF TAX SALE CERTIFICATE
US BANK AS CUST FOR FNA JERSEY BOI, LLC
CERTIFICATE #12-00020**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #12-00020 which was sold to US Bank as Cust for FNA Jersey BOI, LLC, 50 S 16th St., Ste 1950, Philadelphia, PA 19102; and

WHEREAS, Certificate #12-00020 has been paid and fully redeemed for the property owner, Block 22, Lot 1 otherwise known as 135 Main St.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$2,773.69 and a Premium of \$4,400.00 to the above for the redemption of Tax Sale Certificate #12-00020.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-07
REDEMPTION OF TAX SALE CERTIFICATE
JIAN YANG
CERTIFICATE #12-00062**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #12-00062

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which was sold to Jian Yang, 144-90 41st Ave., Apt. #515, Flushing, NY 11355; and

WHEREAS, Certificate #12-00062 has been paid and fully redeemed for the property owner, Block 65.02, Lot 20 otherwise known as 12 Ned Dr.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$238.23 to the above for the redemption of Tax Sale Certificate #12-00062.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-08
REDEMPTION OF TAX SALE CERTIFICATE
US BANK CUST FOR PROCAPITAL I, LLC
CERTIFICATE #12-00095**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #12-00095 which was sold to US Bank Cust for Procapital I, LLC, 50 S 16th St., Ste 1950, Philadelphia, PA 19102; and

WHEREAS, Certificate #12-00095 has been paid and fully redeemed for the property owner, Block 123, Lot 18 otherwise known as 51 Sapphire Lane.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$1,095.85 to the above for the redemption of Tax Sale Certificate #12-00095.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 13-02-09
APPROVAL OF NEW TAXI DRIVER LICENSE
SHAHAB AZIZ**

WHEREAS, Shahab Aziz, has passed the required Police Department background checks; and

WHEREAS, Shahab Aziz, has filed the proper documentation with the Borough Clerk's office.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan that they hereby approve the following Taxi Driver License:

Applicant: Shahab Aziz
117 Westminster Blvd.
Parlin, New Jersey 08859

New Business

Mayor Buccellato read by title Resolution 13-02-12: Resolution Accepting and Authorizing New Jersey Transit Bus Stop – South Atlantic Avenue. Mayor Buccellato requested a motion. Councilman Urbano made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

**RESOLUTION 13-02-12
RESOLUTION ACCEPTING AND AUTHORIZING
NEW JERSEY TRANSIT BUS STOP
SOUTH ATLANTIC AVENUE**

WHEREAS, New Jersey Transit and the Borough of Matawan have agreed to a suitable bus stop location proposal at South Atlantic Avenue, Route 34 South (in front of Park Place Diner).

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NOW, THEREFORE, BE IT RESOLVED the Council hereby accepts New Jersey Transit Municipal Review Statement Bus Stop Proposal.

BE IT FURTHER RESOLVED the Council hereby authorizes the approval of said Proposal and authorizes the Mayor to execute said Statement.

Mayor Buccellato read by title Resolution 13-02-13: Authorizing the Issuance of Summer Parking Passes – Railroad Parking. Mayor Buccellato requested a motion. Councilwoman Angelini made the motion, seconded by Councilman Urbano. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

***RESOLUTION 13-02-13
AUTHORIZING THE ISSUANCE OF
SUMMER PARKING PASSES
RAILROAD PARKING***

WHEREAS, there is a need for additional parking for people working during the summer months; and

WHEREAS, there is also a decrease of regular permit holder using the parking lot during this same time period.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Matawan hereby authorizes the issuance of Summer Railroad Parking Permits for the period of May 1, 2013 through August 31, 2013 for a fee of \$225.00.

Mayor Buccellato read by title Resolution 13-02-14: Authorizing the Hiring of Class Two Specials – Police Department. Mayor Buccellato requested a motion. Councilman Urbano made the motion, seconded by Councilwoman Angelini. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

***RESOLUTION 13-02-14
AUTHORIZING THE HIRING OF CLASS TWO SPECIALS
POLICE DEPARTMENT***

WHEREAS, the Mayor and Council has been advised that there is a need for a Class Two Specials within the Borough of Matawan; and

WHEREAS, applications have been received, said applications have been reviewed and applicants were duly screened pursuant to law.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Matawan authorizes the temporary hiring of Charles Henry III and Jamil Brooks on as needed basis as Class Two Specials (part time hourly employees) in the Police Department, effective February 1, 2013, for no more than twenty (20) hours per week at the rate of compensation of \$15.00 per hour, not to exceed Twenty-nine Thousand Dollars and No Cents

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(\$29,000.00).

CERTIFICATION AS TO AVAILABLE FUNDING

I, Monica Antista, Chief Financial Officer of the Borough of Matawan do hereby certify that as of the date of this certification funds are available from the 3-01-25-240-185 Budget of the Borough of Matawan to Jonathan M. Borsari for Class Two Special for the Borough of Matawan in an amount not to exceed Twenty-nine Thousand and No Cents (\$29,000.00).

This certification is based solely on the information encumbered into the financial records of the borough by the appropriate using division as of this date and relies on the completeness of financial records.

Chief Financial Officer

(Signature on File)

Monica Antista, CMFO

Dated: February 5, 2013

Mayor Buccellato read by title Resolution 13-02-15: Resolution Accepting and Authorizing the Settlement Agreement and Release – Sergeant Anthony Brizendine. Mayor Buccellato requested a motion. Councilman Urbano made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

RESOLUTION 13-02-15

**RESOLUTION ACCEPTING AND AUTHORIZING THE SETTLEMENT AGREEMENT AND RELEASE
SERGEANT ANTHONY BRIZENDINE**

WHEREAS, Anthony Brizendine and the Borough of Matawan have agreed to the attached Agreement.

NOW, THEREFORE, BE IT RESOLVED the Council hereby accepts the retirement of Anthony Brizendine effective December 1, 2012.

BE IT FURTHER RESOLVED the Council hereby authorizes the approval of said Agreement and authorizes the Mayor to execute said Agreement.

Mayor Buccellato read by title Resolution 13-02-16: Authorizing Professional Services Continuation – Renewal Agreement for Wireless Telecommunications Consultant. Mayor Buccellato requested a motion. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Abstain: Councilman Fitzsimmons

Motion passed.

RESOLUTION 13-02-16

**AUTHORIZING PROFESSIONAL SERVICES CONTINUATION RENEWAL AGREEMENT FOR
WIRELESS TELECOMMUNICATIONS CONSULTANT**

WHEREAS, the Borough of Matawan, a Municipal Corporation of the State of New Jersey, with offices at 201 Broad Street, Matawan, NJ 07747 (hereinafter referred to as "The Borough"); and

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WHEREAS, FSD Enterprises, LLC, with offices at 65 Mechanic Street, Suite 201, Red Bank, NJ 07701 (hereinafter referred to as “Wireless Telecommunications Consultant”); and

WHEREAS, the Borough of Matawan desires to continue to engage the services of Declan O’Scanlan of the firm FSD Enterprises, LLC as the Borough’s Wireless Telecommunications Consultant for the year 2013; and

WHEREAS, the Local Public Contracts law requires that the compensation for attorneys and other professionals engaged by a municipality be set forth in a written agreement to be maintained on file in the office of the Borough Clerk; and

NOW, THEREFORE, BE IT AGREED, by and between the parties hereto as follows:

1. **Dutes of Wireless Telecommunications Consultant** – *The Wireless Communications Consultant will continue to perform all services related to the potential replacement of wireless telecommunications facilities upon public property throughout the Borough of Matawan as per proposal dated November 18, 2009.*
2. **Periods of Appointment** – *The period of appointment of the Wireless Telecommunications Consultant shall be January 1, 2013 through December 31, 2013.*
3. **Compensation** – *Shall be as follows:*
Ongoing Projects:
35% of the gross first year’s lease value from each wireless telecommunications tenant on projects undertaken that execute leases after having made initial or ongoing contact during duration of the business relationship between the Borough of Matawan and FSD Enterprises.

NOW, THEREFORE, BE IT RESOLVED the Council hereby authorizes the approval of said Agreement and authorizes the Mayor to execute said Agreement.

Mayor Buccellato read by title Ordinance 13-02: Ordinance to Amend the Code of the Borough of Matawan – Amending Chapter 2 – Administration, Section 2-32 – Shade Tree Commission – Powers and Duties. Mayor Buccellato requested a motion to introduce. Councilman Urbano made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

**ORDINANCE 13-02
ORDINANCE TO AMEND THE CODE OF
THE BOROUGH OF MATAWAN
AMENDING CHAPTER 2 ADMINISTRATION
SECTION-2-32 SHADE TREE COMMISSION
POWERS AND DUTIES**

WHEREAS, the governing body of the Borough of Matawan wishes to update their current Code; and

WHEREAS, the Borough Attorney of the Borough of Matawan has recommended the following amendment to Chapter 2 – Administration, Section-32.4 – Shade Tree Commission – Powers and Duties by the insertion of:

2-23.4(g) *Undertake a review and approval of all applications submitted under the provisions of Chapter XXIV for the Protection of Trees.*

2-23.4(h) *The Commission may adopt a written protocol whereby one of its members may be delegated to review and approve the application for tree removal for application of a minor event involving no more than five (5) trees.*

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Matawan that Chapter 2 – Administration, Section 32.4 Shade Tree Commission – Powers and Duties Board is hereby amended in the Code of the Borough of Matawan.

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Mayor Buccellato read by title Ordinance 13-03: Ordinance to Amend the Code of the Borough of Matawan, County of Monmouth, New Jersey, Amending Chapter XXIV Protection of Trees Adding Section 24-9 Providing for the Planting, Control, Protection, Regulation and Improvement of Trees Upon Public Streets, Highways, Right-Of-Ways, and Public Places. Mayor Buccellato requested a motion to introduce. Councilwoman Angelini made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

**ORDINANCE 13-03
ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF MATAWAN,
COUNTY OF MONMOUTH, NEW JERSEY,
AMENDING CHAPTER XXIV PROTECTION OF TREES ADDING SECTION 24-9
PROVIDING FOR THE PLANTING, CONTROL, PROTECTION,
REGULATION AND IMPROVEMENT OF TREES UPON
PUBLIC STREETS, HIGHWAYS, RIGHT-OF-WAYS, & PUBLIC PLACES**

Section 1. Definitions

- A. *Borough Arborist shall mean the Borough of Matawan Arborist or someone designated by the Borough to perform the duties of the Arborist.*
- B. *Shade Tree Committee shall mean the Shade Tree Committee of the Borough of Matawan.*
- C. *Street shall mean:*
 - a. *Public Right -of-Ways*
 - b. *Municipal Parks and Fields*
 - c. *County Roads*
 - d. *State Highways*
- D. *A Tree shall be defined as any living deciduous or coniferous tree with a normally anticipated mature height of twenty feet (20'), or greater.*
- E. *Person shall mean every person, firm, association, partnership, and corporation.*
- F. *Public Utility Company shall refer to a public utility as defined in the Revised Statutes of the State of New Jersey (R.S. 48:2-13).*
- G. *Plant Construction as applied to public utility companies shall mean poles, wires, cables, sub-surface conduits, pipes, manholes and appurtenant facilities of such companies installed in a street.*

Section 2. Mission Statement:

- A. *The mission of the Community Forestry Plan is to protect the Borough's existing trees, to provide methods to increase their numbers and to maintain healthy trees, which would reduce damage and hazards to residents while providing great environmental benefit. The implementation of this plan will result in a more healthy and safe community forest resource.*

Section 3. Goals and Objectives

- A. *Complete a comprehensive forest inventory of the municipality if funding is available.*
- B. *Create a computerized data base to tract and prioritize plantings and tree work if funding is available.*
- C. *Apply for grants to implement the recommendations of the community forestry plan.*
- D. *Complete a hazard tree survey, if funding is available.*
- E. *Conduct regular surveys to gauge overall forest health and individual tree health.*
- F. *Work with JCPL and other utilities to prioritize and implement acceptable utility clearing which will reduce and prevent above ground and below ground conflict with utilities.*
- G. *Prioritize tree pruning and tree removals by developing and implementing an efficient hazard tree program and protocols.*
- H. *Establish and implement an efficient and adaptable response system to tree related complaints.*
- I. *Establish and implement an efficient and adaptable response system to tree related*

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complaints. Taking into account future conflict with above and below ground utilities to select proper tree species based on site conditions.

Section 4. Required Permits (non-utility operations)

- A. *No person shall do any of the following acts to any Tree on a Public Street without the without obtaining a permit:*
- a. *Cut, prune, climb with spikes, break, damage, remove or kill.*
 - b. *Cut, disturb, or interfere in any way with any root.*
 - c. *Spray with any chemical.*
 - d. *Fasten any rope, wire, sign, or other device. (Nothing herein shall prevent any government agency from affixing in a manner approved by the Shade Tree Committee a public notice upon a tree in connection with administering governmental affairs.)*
 - e. *Remove or damage any guard or device placed to protect any tree.*
 - f. *Place or distribute chemicals, including, but not limited to salt deleterious to tree health.*
 - g. *Plant any tree on a street.*
 - h. *Remove soil, either for trenching or otherwise.*
 - i. *Conduct razing, removal or renovation of any structure if deemed to be damaging to neighboring trees.*
 - j. *Construction new sidewalks and/or driveways with any material whatsoever within five feet of a tree.*
- B. *Non-emergency request to permit actions identified in Items a. to g. in Section 2A should be directed to the Borough Arborists, the Shade Tree Committee or the Department of Public Works. Emergency requests should be directed to the Borough Arborist or Department of Public Works.*
- C. *Requests to permit other actions should be directed to the appropriate Borough of Matawan agency.*

Section 5. Required Permits: Utility Operations; Exceptions.

- A. *The Borough Arborist or Department of Public Works may grant to a Public Utility Company a blanket permit for (1) tree pruning for line clearance, and (2) for the installation and maintenance of sub-surface and above ground Plant Construction if there is inference with or endangerment to tress. The Borough Arborist of Department of Public Works shall notify the Borough of Matawan Administrator and the Shade Tree Committee whenever such a permit is granted.*
- B. *Public Utility Companies may, during periods of emergency, without specific prior permit approval (1) install temporary attachments to trees and (2) make emergency sub-surface repairs.*
- C. *Each Public Utility Company shall exercise reasonable diligence in the maintenance of its Plant Construction so as to avoid damage to trees under the jurisdiction of the Shade Tree Committee.*

Section 6. Violation and Fines.

- A. *Any person found guilty of violating any of the provisions of these regulations shall, upon conviction by the Joint Municipal Court of Hazlet, Keyport and Matawan, located in Hazlet, New Jersey, County of Monmouth or other judicial court of competent jurisdiction may be fined a sum of not exceeding one thousand, five hundred dollars (\$1,500.00) dollars for each offense. Each day after the notification any violation of this ordinance shall continue shall constitute a separate offense.*
- B. *In addition to the fine of one thousand, five hundred dollars (\$1,500.00) referred to in Section 4A, the Borough of Matawan may impose an additional civil penalty of an assessment paid to the municipality based upon the value of the tree as determined by a Certified Tree Expert or a trained forester or by a formula of not exceeding forty dollars (\$40.00) per square inch of a cross-section of the trunk measured 4.5 feet above ground level. This amount shall be modified by the tree's species variety, location, and its condition at the time of damage or destruction.*
- C. *The Code Enforcement Department, Police Department, and the Borough Administrator shall have the authority to issue summons, to initiate proceedings for the collection of civil penalties and to otherwise enforce the provisions of this ordinance.*

Mayor Buccellato read by title Ordinance 13-04: Ordinance to Amend the Code of the Borough of Matawan Chapter 15 – Property Maintenance. Mayor Buccellato requested a motion to introduce. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

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**ORDINANCE 13-04
ORDINANCE TO AMEND THE CODE OF
THE BOROUGH OF MATAWAN
CHAPTER 15 – PROPERTY MAINTENANCE**

Article I Regulations Applicable to All Properties

15-1 REMOVAL OF GRASS, WEEDS, BRUSH AND OTHER DEBRIS

15-1.1 Duties of Owners and Tenants

It shall be the duty of the owner, tenant or person in possession of any lands in the Borough:

a. To keep all brush, hedges or other plant life, growing within ten (10) feet of any roadway and within twenty-five (25) feet of the intersection of two (2) roadways, cut to a height of not more than three (3) feet where it shall be necessary and expedient for the preservation of public safety.

b. To keep the lands free of brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris when the same are inimical to the preservation of public health, safety or general welfare of the Borough, or which may constitute a fire hazard. (1971 Code§ 14-4.1)

15-1.2 Notice to Owners or Tenants

After an investigation of any complaint by a resident, officer or employee of the Borough relative to a violation of this section, or upon his own motion, the Property Maintenance Officer or designated official shall investigate and issue a written report of the conditions complained of to the Administrator. If the reported conditions are found to exist, the Property Maintenance Officer notify the owner, tenant or person in possession of the lands complained of, in writing, either personally or by registered mail, to remove such brush, rubbish, weeds, dead or dying trees, stumps, roots, obnoxious growth, filth, garbage, trash or other debris, within ten (10) calendar days after receipt of the notice. The Property Maintenance Officer or designated official shall reinspect the lands in question after the ten (10) day period. Nuisances not abated will result in the issuance of a citation. (1971 Code§ 14-4.2)

15-1.3 Removal by Borough, Costs Established as a Lien

If the owner, tenant or person in possession of the lands in question shall fail to abate the condition complained of within ten (10) calendar days after receipt of notice, the Property Maintenance Officer or designated official may recommend to the Administrator that the condition complained of to be abated and shall certify that the cost to the Council, who shall examine the certificate and, if it is correct, cause the cost as shown thereon to be charged against the lands. The amount so charged shall become a lien upon the lands and shall be added to and become a part of the taxes next to be assessed and levied upon the lands, shall bear interest at the same rate as taxes, and shall be collected and enforced by the same officer and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this section. (1971 Code§ 14-4.3)

15-2 – 15-8 RESERVED

15-9 RESIDENTIAL PROPERTIES

All properties, buildings, and structures of residential properties shall be subject to the following regulations:

a. The exterior of any building, fence, or other structure shall not be allowed to deteriorate to a condition which shall be a health or safety hazard.

b. No property or premises shall cause the accumulation of broken glass, filth, garbage, rubbish, trash, litter, and debris.

c. No property or premises shall allow vegetation to become overgrown which shall include brush, weeds, plants, shrubs, and/or grass. In the case of grass and weeds, the same shall not exceed twelve (12) inches in height at any time. (1971 Code§ 19-14.1)

Article II Property Maintenance Code

15-13 FINDINGS AND DECLARATIONS OF POLICY

Whereas, it is the purpose of this Article to ascertain whether there are unsafe, unsanitary or unhealthy conditions existing in various commercial and rental properties within the Borough and to

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determine whether these properties are, or may become, substandard with respect to structural integrity, equipment or maintenance and, further, that such conditions, including but not limited to, structural deterioration, lack of maintenance of exterior of premises, infestation, lack of or poor maintenance of essential heating, plumbing, storage or refrigeration equipment, lack of upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, unsanitary conditions and overcrowding constitute a menace to the health, safety, welfare and reasonable comfort of the citizens and inhabitants of the Borough.

The purpose of the Commercial Property Maintenance Code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of commercial premises and rental dwelling units; to fix responsibilities and duties upon owners, operators and occupants; to authorize and establish procedures for the inspection of commercial properties and rental dwelling units; to fix penalties for the violations of the Commercial Property Maintenance Code and provide for the right of access by the agents and employees of the Borough to enforce compliance of the provisions hereof whenever necessary. The Commercial Property Maintenance Code is declared to be remedial and essential for the public interest and it is intended that the Commercial Property Maintenance Code be liberally construed to affect the purposes as stated herein.

The scope and purpose of the Commercial Property Maintenance Code shall include jurisdiction to monitor rental of multi-dwelling units and maintenance thereof within the Borough of Matawan. (1971 Code§ 19-2)

15-13.1 ADOPTION OF THE 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE

In accordance with the provisions of NJSA 40:49-5.1, the 2006 International Property Maintenance Code is hereby adopted by reference. Three (3) copies of the 2006 International Property Maintenance Code may be found on file in the Office of the Borough Clerk. (Ord. No. 95-18 §B)

15-13.1 DEFINITIONS

As used in this Article:

Commercial Property shall mean a lot or any tract of land on which, or on any part of which, commercial activity of any kind takes place. Commercial activity shall include, but is not limited to, gasoline stations, retail sales, restaurants, taverns, professional activities, including but not limited to medical, dental, legal, architectural, accounting offices, personal services, including but not limited to real estate, insurance, hairdressers, barber shops, repair shops of all kinds, amusements, including but not limited to movies, skating rinks, bowling alleys, automobile or trailer sales, whether new or used. Commercial activity shall not include sales of agricultural products which are produced on the premises, or a room in a private residence being used by the owner of the residence as an office, provided the office is used solely by the owner of the residence with no employees engaged therein and to which the public is not admitted. In the event that a portion of a private residence is used as a commercial property, the entire premises shall be covered by this Article.

Common Areas shall mean those portions of any multi-family dwellings which are for the common use of the tenants thereof, or for the use of the general public. These shall include, but not be limited to, common hallways and stairways, foyers, vestibules, basements, laundry rooms, recreation rooms and garages.

Exterior of the Premises shall mean open spaces on the premises outside of any building thereon or those portions of such buildings on the premises which are exposed to the public view or the elements.

Garbage shall mean animal, vegetable and other organic waste, resulting from the handling, preparation, cooking and consumption of food or other products.

Infestation shall mean and include but not be limited to unsanitary conditions or anything unreasonably offensive to the senses or dangerous to health or anything which renders air, food or drink unwholesome or detrimental to the health of human beings.

Multi-Family Dwelling shall mean any premises designed or existing for the purpose of providing residence or abode or habitation of two (2) or more families. These shall include, but not be limited to, homes for two (2) or more families, apartment buildings or rooming houses whether furnished or unfurnished.

Nuisance shall mean:

a. Any public nuisance known at common law or in law or equity jurisprudence or has been provided for by the statutes of the State of New Jersey or the ordinances of the Borough of Matawan.

b. Physical conditions dangerous to human life or detrimental to health of persons including but not limited to defective chimney, flue and vent attachments, natural growth, loose over

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hangings, dangerous unsanitary conditions, sources of infestation, unsafe driveways, walks and paths, including holes, excavations, breaks, projections, icy conditions, uncleared snow or obstructions thereon.

Occupant shall mean any person or persons, including the owner, having actual possession or control of or use of a building or any part thereof.

Owner shall mean any person who alone or jointly or severally with others shall have legal or equitable title to any premises, with or without actual possession thereof, or any agent of the owner, or executor, administrator, trustee, receiver or guardian of an estate, or as a mortgagee in possession, regardless of how such possession was obtained.

Premises shall mean any lot or tract of land or any building or structure located thereon.

Refuse shall mean all putrescible and nonputrescible solid waste, including but not limited to brush, weeds, broken glass, and debris of any description, garbage, rubbish, junk, abandoned motor vehicles and solid market and industrial waste.

Rental Dwellings shall mean premises or parts of premises including, but not limited to entire single family dwellings, an apartment in a building of two (2) or more dwelling units or a furnished room which is rented or leased or provided to a tenant whether for actual cash consideration or as partial remuneration for services rendered.

Rental dwellings shall NOT include those rooms or apartments provided to "immediate family members" within the dwelling unit, occupied by the owner thereof, or any dwelling unit occupied by the owner as a personal residence. "Immediate family members" shall be determined to be fathers, mothers, brothers, sisters, sons-in-law, daughters-in-law, grandparents and any other person of the second degree of kinship as well as civil union partners and their dependents.

Rubbish shall mean combustible and noncombustible waste material, excluding garbage but including liquid commercial and industrial waste. (1971 Code§ 19-3)

15-15 STANDARDS WITH OTHER LAW

Where the provisions of the Commercial Property Maintenance Code impose a higher standard than is set forth in any other ordinance of the Borough or under the laws of the State of New Jersey, then the standards set forth herein shall prevail, but if the provisions of the Commercial Property Maintenance Code impose a lower standard than any other ordinances of the Borough or the laws of the State of New Jersey, then the higher standard contained in any other such ordinance or law shall prevail. It is the intention of the Commercial Maintenance Code to supplement, but not to replace other codes, ordinances or laws, either adopted or to be adopted by the Borough or its legally constituted regulatory agencies or laws adopted by the State of New Jersey. (1971 Code§ 19-4)

15-16 PROPERTY MAINTENANCE OFFICER

15-16.1 Appointment

The Mayor, with the consent of the Borough Council, shall designate the Property Maintenance Officer who shall serve for a term of one (1) year to exercise the powers prescribed by the Commercial Property Maintenance Code. The appointment shall be for a calendar year and in the event of a vacancy, the vacancy shall be filled for the remainder of the term. (1971 Code§ 19-5.1)

15-17 HEARING BOARD (Deleted by Ordinance 13-01)

15-18

15-18.1 Periodic Inspections

All properties covered by the Commercial Property Maintenance Code must be available and accessible for periodic inspections, which will be made at reasonable and established intervals at the discretion of the Property Maintenance Officer or his authorized representatives. Owners, operators and occupants are required to provide the necessary arrangements to facilitate these inspections. The Property Maintenance Officer is hereby authorized and empowered to apply for, obtain and execute a search warrant for any building subject to the Commercial Property Maintenance Code whenever necessary to inspect such building or premises. (1971 Code § 19-6.1)

15-18.2 Time of Inspections

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All inspections and reinspections shall be made during daylight hours or during hours when the buildings and premises are open to the public, unless other arrangements are jointly made between the Property Maintenance Officer and the owner, operator or occupant of the premises, or, unless there is reason to believe a violation exists of a character which is an immediate threat to health and safety requiring inspection and abatement without delay. (1971 Code§ 19-6.2)

15-18.3 Inspection Between Tenancy (Delete)

15-18.4 Petitioned Inspections

An inspection will be required when requested by an occupant of a commercial property or by a tenant or occupant of a rental dwelling unit provided that the petitioner:

- a. Is the tenant or occupant of the premises; and*
- b. Files the petition in writing with the Property Maintenance Officer of the Borough of Matawan Clerk's Office and with the property owner, specifying a violation under the Commercial Property Maintenance Code; and*
- c. Agrees to provide access to the premises under his control for the purposes of inspection and for the abatement of any violation found to exist; and*
- d. In the event that a petition for inspection is so made, the property owner shall have ten (10) calendar days to correct the violation and to notify the Property Maintenance Officer of its action. If petitioner still requests an inspection and if the violation still exists, the property owner shall pay the fee. The inspection will be made within (10) calendar days. (1971 Code§ 19-6.4)*
- e. A neighbor or interested party may request an inspection utilizing the same procedure as in 15-18.4(b) and setting forth the alleged infraction observed.*

15-18.5 Inspection and Inspection Certificates Not Required

- a. When an inspection certificate has been issued in within the previous sixty (60) days, however, should these premises have been occupied during the sixty (60) day period and a change in occupant is to be accomplished, then the provisions of subsection 15-18.3 regarding inspections shall still apply.*
- b. For twelve (12) months after the issuance of a Certificate of Occupancy for a new commercial or rental dwelling unit.*
- c. When an existing tenant or occupant remains in the same commercial or rental dwelling unit under a new lease or as a holdover. (1971 Code§ 19-6.5)*

15-18.6 Action After Inspection

Within two (2) calendar days after the completion of any inspection covered in subsection 15-18.1, 15-18.3 and 15-18.4 the Property Maintenance Officer shall either:

- a. Issue an inspection certificate indicating favorable findings as to matters which are embraced in the Commercial Property Maintenance Code; or*
- b. If, in the opinion of the Property Maintenance Officer, only minor violations are found to exist after the inspection, a temporary inspection certificate can be issued, permitting a new occupant to conditionally occupy the premises. This shall specify that the owner or operator has agreed to make all required repairs within fifteen (15) calendar days after the receipt of such a temporary certificate. For the purpose of this paragraph, "minor violations" shall be construed to mean violations whose correction would not exceed a total cost of one thousand dollars (\$1,000.00) and which do not present an immediate danger to health, safety or welfare of the occupant; or*
- c. Issue a written notice of violation to the owner or operator, prohibiting occupancy until reinspection shall show the violations to have been corrected. This notice of violations must enumerate each violation of the Commercial Property Maintenance Code found during the original inspection and give the owner or operator dates for the abatement of these violations. (1971 Code§ 19-6.5)*

15-19 EXTERIOR

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The exterior of premises and structures shall be kept free of nuisances and hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free of hazards which will include but are not limited to the following:

- a. Refuse. Broken glass, filth, garbage, trash, litter and debris.*
- b. Natural Growth. Brush, weeds, ragweed, stumps, roots and obnoxious growth; dead and dying trees and limbs or other natural growth which, through rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.*
- c. Overhanging. Loose and overhanging objects and accumulations of ice and snow above ground level, which constitute a danger of falling on persons in the vicinity.*
- d. Ground Surface Hazards or Unsanitary Conditions. Holes, excavations, breaks, projections, obstructions, ice, uncleared snow and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to and used by persons on the premises. All holes and excavations shall be filled and repaired, walks and steps repaired and other conditions removed where necessary to eliminate hazards or unsanitary conditions. It shall be the responsibility of owners and operators to take reasonable steps to discover and remove any such hazards or unsanitary conditions which may exist on their premises.*
- e. Recurring Accumulations of Stormwater. Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of stormwater.*
- f. Sources of Inftstation.*
- g. Duty to Remove Snow and Ice. The owner of any commercial property or of an apartment complex consisting of more than one (1) unit shall be required to minimize the hazards associated with the presence of snow, ice and slush on the sidewalks and walkways abutting the property. Snow shall be removed within twenty-four (24) hours of the last precipitation and sand, salt, ashes or other appropriate material shall be applied to the cleared surface to alleviate any hazardous condition. In apartment complexes all private roadways, primary walkways, steps and porches used by residents to access their units, automobiles, laundry rooms and other common areas shall be cleared in accordance with requirements imposed on commercial property owners. Secondary walkways shall be cleared within forty-eight (48) hours.*

Owners of apartment complexes with less than six (6) residential units may obligate their tenants, by written clause in their lease, to perform the obligations imposed by this section. Where hazardous conditions exist because of the melting and refreezing of water, rain or snow the owner shall be required to make diligent efforts to eliminate or minimize the condition so created.

h. Where the responsibility for maintenance of premises and structures including but not limited to all landscaping and snow removal has not been designated by a written lease or similar agreement, the responsibility for the same shall be that of the property owner. (1971 Code§ 19-7)

15-20 LANDSCAPING, SIGNS, PAVING

15-20.1 Landscaping

All trees, shrubs, bushes and hedges and plantings of other types shall be kept trimmed as necessary to prevent them from becoming overgrown and to prevent them from encroaching on all paths, driveways, sidewalks and parking areas to the point where they prevent free movement thereon or otherwise create a hazard to persons using them. (1971 Code § 19-8.1)

15-20.2 Signs

All signs of any type permitted by reason of other regulations or as a lawful nonconforming use, shall be maintained, painted and in good repair. (1971 Code § 19-8.2)

15-20.3 Pavement

All paved areas including, but not limited to, sidewalks, paths, driveways, patios, porches or any type of masonry construction, parking lots, driveways which are accessible to and use by persons on the premises, shall be kept in good repair, free of hazards and unsanitary conditions, including but not limited to holes, excavations, breaks, projections, obstructions, ice, snow and litter. All such holes and excavations shall be filled and repaired, walks and steps repaired and other conditions removed where

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necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon discovery. It shall be the responsibility of the owner, operator or occupant to take reasonable steps to discover, remove and abate any such hazard or unsanitary condition which may exist on the premises. (1971 Code § 19-8.3)

15-21 REMOVAL OF REFUSE, RUBBISH AND GARBAGE

In those types of premises where garbage collection is not provided by municipal collection, it shall be the responsibility of the owner or operator of the premises to provide for, by private contract or otherwise, scavengers for the removal of refuse, rubbish and garbage and shall provide for such removal with sufficient frequency as to prevent undue accumulation on the premises. Further, it shall be the responsibility of the owner or operator of these premises to provide sufficient and suitable receptacles for receiving and holding refuse, rubbish and garbage and receptacles shall be maintained in such a manner with covers in place, so as to prevent the creating of a nuisance, and shall be kept in a place separate and apart from sidewalks and other pedestrian areas, except when set out for collection during the hours of a day scheduled for such a collection.

It shall be the duty of the owner or operator in the case of multifamily dwelling units and the duty of the occupant in the case of commercial premises to maintain the exterior of all premises and common areas of all buildings located thereon in a manner which keeps them free from accumulation of litter, refuse, rubbish and garbage and other unsafe and unsanitary conditions, and to prevent any nuisances from being created thereon. (1971 Code § 19-9)

15-22 DUTY TO KEEP PREMISES FREE OF INFESTATION

Every owner, operator or occupant shall be responsible for the elimination of infestation in and on the premises subject to his control. (1971 Code § 19-10)

15-23 DUTY OF OCCUPANCY TO MAINTAIN PREMISES

a. All parts of the premises under the control of an occupant shall be maintained in a clean and sanitary condition and the occupant shall refrain from any act which would render other parts of the premises unclean or unsanitary or which would obstruct the owner or operator from performing any duty hereunder required.

b. Owner shall have the right to petition the Property Maintenance Officer to inspect an apartment if owner believes that a violation exists.

c. Occupants are specifically made responsible for any litter or excretions of their pets both within the apartment and on the common premises. (1971 Code § 19-11)

15-24 MAINTENANCE OF BUILDINGS

All buildings covered by the Commercial Property Maintenance Code shall be kept free of nuisances or other conditions which may constitute health, safety or fire hazards for occupants, neighbors or the general public. The owner, operator or occupant (as provided by contractual agreement between owner and occupant) of every such building shall, along with other responsibilities necessary to attain these objectives:

a. Maintain all floors and supporting structural members in sound condition capable of safely bearing imposed loads.

b. Supply properly fitting screens in good repair for windows in multifamily dwellings. Such screens shall be installed and maintained by owner or operator from May 1 to October 1 of each year. Window screens shall be required on those apartments provided with air conditioning units. All windows shall be in operational order and in the event of double hung combination windows the bottom portion shall be in operational order.

c. Keep walls and ceilings in good repair, free from breaks, loose plaster and similar conditions. Walls and ceilings shall be protected with paint, paper, sealing material or other covering so they may be clean, free from visible foreign matter, sanitary and well maintained at all times. The use of wall covering materials shall be restricted to those allowed in the lease of landlord. The landlord shall broom clean all apartments prior to occupancy by a new tenant. Every apartment shall be painted prior to the issuance of a Certificate of Occupancy unless the apartment has been painted within the prior six (6) months and upon inspection by the Property Maintenance Code Officer that painting is deemed unnecessary. All leases shall contain a provision that all apartments shall be painted during the term of tenancy but no less than at three (3) year intervals. If the landlord fails to paint or, at the tenant's request, fails to provide reasonable credit for paint, the tenant may request an inspection

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by the Property Maintenance Code Officer. The Officer shall declare the extent to which, if any, painting must be provided by the landlord.

d. Maintain all stairways structurally sound and free from defects, provide hand railings or banisters for all stairs, balconies, fire escapes and stairwells, keeping them securely attached, maintained free from defects and of sufficient height to guard against accidents and be appropriate for use by persons of normal height; provide adequate lighting for all stairs with control switches operable from each story except in those cases where artificial lighting for hallways and common areaways is supplied in accordance with State law from a master control switch.

e. Maintain the building electrical system, including but not limited to fuse panels, lighting switches and wall outlets in a safe and operable manner.

f. Maintain the buildings, heating system, including but not limited to all furnaces, boilers, plumbing, ductwork, radiators, vents, chimneys, flues, thermostats and other regulatory and safety devices in operable condition and free of defects.

g. Maintain all connections of plumbing fixtures to the sanitary sewer through lines which are free of leaks, corrosion or deterioration and provide unobstructed passage from the plumbing facilities within the dwelling to the sanitary sewer. Maintain all plumbing fixtures in a sanitary and operable condition and free from holes and leaks. Maintain hot water system, including all safety devices connected thereto in operable condition and free of defects.

h. Provide for maintenance of all common areas on the premises at sufficient intervals to insure that they are maintained in a safe, sanitary and orderly condition.

i. In all multifamily apartments smoke detectors approved by Underwriters Laboratories shall be installed and maintained in each apartment by the owner upon the earliest of the following events:

1. Upon the next re-rental to a new tenant after the adoption of this Article, or
2. One (1) year after adoption of this Article.

j. All commercial property which have residential units attached shall have smoke alarms and/or heat detectors, with the commercial unit alarms audible within the residential units. All such detectors must be approved by the Property Maintenance Officer who will also determine the number and locations of the same.

k. All sidewalks, steps, driveways, parking spaces, and other paved areas intended for public use shall be kept in a proper state of repair and free of snow, ice, and all debris. The owner, operator, or occupant shall repair or replace any sidewalk or driveway, which by reason of its condition shall constitute a danger to public health or safety.

l. Every occupant wall shall be free of breaks, loose or rotting boards or timbers, and shall not admit rain or dampness to the interior walls or occupied spaces of the building. All exterior surface materials shall be maintained weatherproof and shall be properly surface coated when required to prevent deterioration.

m. Roofs shall be structurally sound, water-tight and impervious to rain. Gutters and drain spouts shall be properly maintained. Runoff from drains and roofs shall not erode soil or create a hazardous condition.

n. All decorative features shall be maintained in good repair and shall be safely anchored to the structure.

o. All overhanging extensions such as canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, and exhaust ducts shall be protected against decay and rust by the application of weather coating material, paint, or other protective treatment. They shall be safely mounted and securely anchored.

p. The owner, operator, or occupant shall immediately remove all scratches, symbols, words, or other markings commonly known as graffiti.

q. All chimneys, cooling towers, smoke stacks, and similar structures shall be protected against decay and rust by application of weather coating material, paint, or other protective treatment. They shall be maintained in such a manner that they are structurally safe and in good repair.

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r. *Stairs, porches, and balconies and their attachments shall be safely constructed and capable of supporting the imposed loads and shall be maintained in sound condition. Railings must be attached to any rise exceeding twenty-four (24) inches. Guard rails must be installed in those areas of an open or partially open porch, deck or similar open structures which exceed twenty-four (24) inch rise from ground level.*

s. *Notwithstanding any provision to the contrary all structures and adjoining premises shall be maintained in a safe and sanitary manner. No condition shall be permitted to exist which is hazardous or which detracts from the appearance of the surrounding area. (1971 Code§ 19-12)*

15-25 JANITORIAL SERVICE IN MULTIFAMILY DWELLINGS

15-25.1 Four (4) or More Dwelling Units

In every complex containing four (4) or more dwelling units, the owner shall provide or designate a superintendent, janitor, caretaker or housekeeper who shall at all times maintain the premises in compliance with the Commercial Property Maintenance Code, the State Uniform Construction Code, the health and sanitary ordinances and fire ordinances of the Borough. In the event the individual shall not reside on the premises, the owner shall make such individual's name, address, telephone number and work schedule known to all tenants and the Borough Clerk the name of an alternate individual who shall be responsible during the absence of the superintendent, janitor, caretaker or housekeeper. (1971 Code§ 19-13.1)

15-25.2 Thirty (30) or More Dwelling Units

In any premises containing thirty (30) or more dwelling units, rooming units or combination thereof, the superintendent or janitor or caretaker or housekeeper shall reside on the premises. Where more than one (1) building or adjoining premises or premises in near proximity, but in no case beyond the boundaries of Matawan Borough, to each other are in common ownership or under common management or maintenance supervision a resident superintendent, janitor, caretaker or housekeeper of one (1) building may assume responsibility for the other building or residence. Where there are six (6) to thirty (30) dwelling units, rooming units or a combination thereof, including condominiums and cooperatives, a part-time superintendent, janitor or caretaker must reside within a reasonable accessible distance from the building. (1971 Code § 19-13.2)

15-25.3 Responsibility for Continued Services

The superintendent, janitor, caretaker or housekeeper shall have sufficient knowledge, competence and responsibility and shall have the authority from the owner or operator to attend to arrange for continual operation of all essential services and facilities required under the Commercial Property Maintenance Code. (1971 Code§ 19-13.3)

15-25.4 Owner Not Relieved from Responsibility

The failure of any superintendent, janitor, caretaker or housekeeper to comply with the provisions of the Commercial Property Maintenance Code, even in disobedience of instructions, shall not relieve the owner or operator from the duties and responsibilities imposed by the Commercial Property Maintenance Code. (1971 Code§ 19-13.4)

15-25.5 Owner Required to File Statement with Borough Clerk.

The owners of every complex having four (4) or more dwelling units shall file with the Borough Clerk a statement containing the name and address of the owner, the name and address of the lessor if other than the owner and the name and address of the agent, if any, in charge of the premises as well as the name and address of the person authorized to receive notice or process under the Commercial Property Maintenance Code. Upon any change occurring in title or agency, the owners shall within fifteen (15) calendar days of the change notify the Borough Clerk in writing as to the change in pertinent information. The Clerk shall transmit this Annual Registration Statement to the Police and Fire Departments and the Property Maintenance Officer. (1971 Code§ 19-13.5)

15-25.6 Owner Required to File Statement of Tenants

The owners of any complex subject to this Article shall, on or before January 31 of each year, file with the Fire Official or other designated official, a complete list of the names of all tenants, the apartment number which they occupy and apartment numbers of all unoccupied apartments. This list shall be updated on April 1, July 1 and October 1 indicating any changes in occupancies and vacancies. (1971 Code§ 19-13.6; New)

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15-25.7 Owner Responsible for Investigation of Employees

Prior to the employment of any person to perform maintenance services to the dwelling units located in the complex, including superintendents, managing agents, and all persons similarly hired to perform services at a location governed by "The Hotel and Multiple Dwelling Law" (N.J.S.A. 5:13A-1 et seq.) the owner shall cause an investigation into whether or not the applicant shall be by reason of training or experience be competent to perform the duties entrusted to him, familiar with the requirements contained in this subsection. "The Hotel and Multiple Dwelling Law" and "The Regulations for Maintenance of Hotels and Multiple Dwellings" (NJAC 5:10-1.1). Additionally, the owner shall make inquiry of the applicant of prior criminal convictions and shall in addition to the inquiry confirm independently the absence or existence of a criminal conviction. This section shall not apply to any person employed or subcontracted by the owner to perform exterior maintenance repairs and who shall not, in the course of his duties, enter into any dwelling unit. The owner shall maintain written confirmation of the investigation, which shall be made available upon demand to the Property Maintenance Code Officer. Failure to comply with the provisions of this section shall subject the owner to the penalties described in Section 15-30. (1971 Code§ 19-13.7)

15-26 APPLICATIONS AND FEES

a. Applications for an inspection certificate, except an application under subsection 15-18.4, shall be submitted in writing to the Property Maintenance Code Officer or to the Clerk's office accompanied by a fee of thirty-five (\$35.00) dollars;

b. In the event that the Property Maintenance Officer or his designated official must return to the commercial or dwelling unit for subsequent inspections, there shall be a fee of twenty-five (\$25.00) dollars per inspection payable at the time of each subsequent inspection, which payment shall be made before final Certificate of Occupancy may be issued. (1971 Code§ 19-14; Ord. No. 01-16)

15-28 CONDUCT OF INSPECTORS AND IDENTIFICATION

The Property Maintenance Officer, or his delegate acting as an inspector, shall be supplied with official identification by the Borough and shall exhibit such identification when entering any dwelling unit building or part thereof, subject to the Commercial Property Maintenance Code. Such persons making inspection shall conduct themselves as to avoid intentional embarrassment or inconvenience to the occupant. The purpose of the inspection shall be explained to the occupant. All such inspections shall be during normal working hours, if possible, or at a convenient time arranged between the Property Maintenance Officer and the owner or tenant. (1971 Code § 19-15)

15-29 VIOLATIONS; NOTICE; HEARING; REPAIR DEPOSIT FUND

15-29.1 Notice of Violation; Time Limit for Abatement

Where a violation of the Commercial Property Maintenance Code is found to exist, a written notice from the Property Maintenance officer, or his agent, shall be served on the person or persons responsible for the correction thereof. The notice shall specify the violation or violations found to exist, what must be done to correct or abate same, a reasonable time not to exceed thirty (30) calendar days to make such corrections, the right of the person served to request a hearing and that the notice of the Property Maintenance Officer or his agent shall become an order ten (10) days after service unless a hearing is requested pursuant to this section. The thirty (30) calendar day time limit set forth herein shall not be effective where specific time limits are set forth in her sections of the Commercial Property Maintenance Code. (1971 Code§ 19-16)

15-29.2 Service of Notice

Notice may be served personally on an owner, operator or his specified agent or upon occupant, as the case may be. Service may also be made by certified mail, return receipt requested, to the last known address of the person or by posting the notice in a conspicuous place on the premises where the owner or operator or lessor has failed to register pursuant to subsection 15-25.5. Where the notice is directed to an occupant, service may also be made by posting same on the door or entrance to the area he occupies. (1971 Code§ 19-16.1)

15-29.3 Request for Hearing

Ten (10) calendar days from the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon and serves a written request within the ten (10) calendar day period in person or by mail on the Property Maintenance Officer or the Borough Clerk, and in the case of multifamily units further posts copies of the request at conspicuous places for tenants to see. Such a request for a hearing shall set forth briefly the grounds or reasons on which the request for a hearing is based and the factual matters contained in the notice of violation which is to be disputed at the

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hearing. The Property Maintenance Officer, upon receipt of the request, shall within thirty (30) days therefrom and upon five (5) calendar days' notice to the party aggrieved, set the matter down for a hearing. The Hearing Board established in Section 15-17 shall conduct the hearing and decide the issues presented to it. (1971 Code§ 19-6.2)

15-29.5 Extension of Time

The Property Maintenance Officer, where necessary, may extend the time for correction or abatement of the violations for an additional reasonable period of time. (1971 Code§ 19-6.4)

15-29.6 Emergency Abatement of Violation

Where the violation or condition existing on the premises are of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the Property Maintenance Officer may either abate the violations immediately or order the owner, operator or occupant to abate the violation or condition within a period of time, not to exceed three (3) calendar days, and upon failure to do so, the Property Maintenance Officer shall abate the condition immediately thereafter. (1971 Code § 19-16.5)

15-29.7 Abatement by Borough

Where abatement of any nuisance, correction of a defect in the premises or the maintenance of the premises in a proper condition so as to comply with the requirements of any municipal ordinance or State law applicable thereto, requires expenditure of funds, the Property Maintenance Officer shall present a report of the work proposed to be done to accomplish the foregoing to the Borough Administrator with an estimate of the cost thereof along with a summary of the proceedings undertaken by the Property Maintenance Officer to secure compliance, including notices served upon the owner or operator of the premises involved and orders issued by the Property Maintenance Officer. The Borough Administrator may thereupon authorize the immediate closing of the premises, if recommended by the Property Maintenance Officer, and/or abatement of the nuisance, correction of the defect or work necessary to place the premises in proper condition and in compliance with the ordinance of the Borough and the laws of the State of New Jersey. The Property Maintenance Officer may thereafter proceed to have the work performed in accordance with the authorization but is not to exceed the amount specified in the authorization, and shall, upon completion thereof, submit a report of the moneys expended and costs to the Mayor and Council. After review of the same, the Mayor and Council, finding them to be in order, shall approve the expenses and costs and cause them to be paid from the repair deposit fund and shall request a replenishment of the repair fund from the owner. The copy of the resolution approving the expenses and costs shall be certified by the Clerk and a copy of this report and resolution shall be sent by certified mail to the owner. (1971 Code§ 19-16.6)

15-29.8 Repair Deposit Fund; Required

a. *Emergency Repair Security Deposit.* Upon change of ownership, the new owner of a multifamily dwelling of six (6) or more units shall deposit with the Borough Clerk the sum of forty (\$40.00) dollars per apartment with a maximum of four thousand (\$4,000.00) dollars for each apartment building or complex. When emergency conditions or the failure of the owner to correct violations require the municipality to take corrective measures, these deposits shall be used to defray the costs. The owner shall be responsible, in addition, for any excess costs and shall replenish the deposit funds within ten (10) days of request to do so by the Borough Clerk. These funds shall be deposited in an interest bearing account for the benefit of the individual owners.

b. *Return of Security Deposit.* After the deposit has been held by the Borough Clerk for a period of at least two (2) years, the owner shall have the right to petition the Hearing Board to review the necessity for the security deposit for any particular building or complex. The Hearing Board shall have the power to return to the owner all or a portion of the security deposit, if in the opinion of the Hearing Board the deposit is no longer required.

c. *Reinstatement of Security Deposit.* If at any time after a refund of all or a portion of the security deposit the Hearing Board is of the opinion that due to a change in ownership or other circumstances, the security deposit is required again, it shall have the power to notify the owner to reinstitute the security deposit within fifteen (15) days of the notification. (1971 Code§ 19-16.6)

15-30 PENALTIES

Any person who shall violate any of the provisions of this Article shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. Each violation of any of the provisions of this Article, and each day the same is violated, shall be deemed and taken to be a separate and distinct offense. (1971 Code§ 19-17; New)

Mayor Buccellato read by title Ordinance 13-05: Ordinance to Amend the Code of the

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Borough of Matawan, County of Monmouth, New Jersey, Amending Chapter XVII Fire Prevention and Protection, Amending Section 17-2.1(A) Fee Schedule and Adding Section 17-3 Residential Rental Inspections and Rental Continued Certificates of Occupancy. Mayor Buccellato requested a motion to introduce. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

**ORDINANCE 13-05
ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF MATAWAN,
COUNTY OF MONMOUTH, NEW JERSEY,
AMENDING CHAPTER XVII FIRE PREVENTION AND PROTECTION, AMENDING SECTION 17-2.1(a)
FEE SCHEDULE AND ADDING SECTION 17-3 RESIDENTIAL RENTAL INSPECTIONS AND RENTAL
CONTINUED CERTIFICATES OF OCCUPANCY**

17-2 FEE SCHEDULE.

a. *Fees for Certificates of Continued Occupancy. Any change in ownership or tenant requires that a new certificate must be applied for.*

1. *Residential resale: all certificates of continued occupancy: \$75.00 per unit. This fee includes the fire certificate of continued occupancy and the certificate of smoke detector compliance and carbon monoxide detector (CSDCMAC).*

(a) *Residential Rental Continued Certificate of Occupancy shall be \$50.00 for each dwelling unit.*

17-3 RESIDENTIAL RENTAL INSPECTIONS AND RENTAL CONTINUED CERTIFICATES OF OCCUPANCY

17-3.1 Periodic Inspections.

All properties residential rental units must be available and accessible for periodic inspections, which will be made at intervals at the discretion of the Fire Official or his authorized representatives. Owners, operators and occupants are required to provide the necessary arrangements to facilitate these inspections. The Fire Official is hereby authorized and empowered to apply for, obtain and execute a search warrant for any building subject to the Uniform Fire Code whenever necessary to inspect such building or premises.

17-3.2 Time of Inspections.

All inspections and re-inspections shall be made during daylight hours or during hours when the buildings and premises are open to the public, unless other arrangements are jointly made between the Fire Official and the owner, operator or occupant of the premises, or, unless there is reason to believe a violation exists of a character which is an immediate threat to health and safety requiring inspection and abatement without delay.

17-3.3 Inspection between Tenancy.

All income producing residential properties as covered by the this code except as listed in subsection 15-18.5 shall be inspected either before occupancy by a tenant not previously occupying the premises or between tenancies and that a Certificate of Occupancy be issued to each subject dwelling unit either before Occupancy or between occupancies of tenants; if for any reason the Certificate of Occupancy inspection is requested while the commercial of dwelling unit is occupied a letter must accompany the Certificate of Occupancy application requesting a waiver of inspection while the rental unit is occupied outlining the reasons for the waiver request. The granting of this

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waiver will be at the sole discretion of the Fire Official

a. *The Fire Official may change the day and time of inspection upon verbal notice to the landlord or individual requesting the inspection.*

b. *In the event the inspection reveals violations of such a nature so as to render occupancy unsafe, the owner shall be responsible for the reasonable moving costs and temporary dwelling costs of the tenant until the premises are made safe for occupancy.*

c. *The landlord shall include in its lease, or a notice attached to the lease, a statement that the State of New Jersey, Department of Community Affairs, inspects municipal dwellings of the three (3) units or more every five (5) years and that the Borough of Matawan has a Property Maintenance Code, copies of which are available for review in the apartment superintendent's office and at the Borough Hall. A brief one page summary of the Property Maintenance Code shall be permanently and (1) conspicuously affixed in every dwelling unit together with a list of telephone numbers of the appropriate officials and employees.*

d. *Copies of all notices required under this Article shall be supplied to the owners at the addresses supplied and specified by the owners. The master copies of the notice shall be supplied to all municipal dwelling owners by the Property Maintenance Officer.*

17-3.4 Petitioned Inspections.

An inspection will be required when petitioned by a tenant or occupant of a rental dwelling unit provided that the petitioner:

a. *Is the tenant or occupant of the premises in the petition; and*

b. *Files the petition in writing with the Fire Official, Property Maintenance Officer or the Borough Clerk's Office and with the property owner, specifying a violation under the Commercial Property Maintenance Code or Uniform Fire Code; and*

c. *Agrees to provide access to the premises under his control for the purposes of inspection and for the abatement of any violation found to exist; and*

d. *In the event that a petition for inspection is so made, the property owner shall have ten (10) days to correct the violation and to notify the Fire Official or Property Maintenance Officer of its action. If petitioner still requests an inspection and if the violation still exists, the property owner shall pay the fee. If the violation has been corrected, the fee shall be paid by the petitioner. The inspection will be made within ten (10) days.*

17-3.5 Inspection and Inspection Certificates Not Required.

a. *When an inspection certificate has been issued in within the previous sixty (60) days, however, should these premises have been occupied during the sixty (60) day period and a change in occupant is to be accomplished, then the provisions of subsection 17-3.3 regarding inspections shall still apply.*

b. *For twelve (12) months after the issuance of a Certificate of Occupancy for a new commercial or rental dwelling unit.*

c. *When an existing tenant or occupant remains in the same rental dwelling unit under a new lease or as a holdover.*

17-3.6 Action after Inspection.

Within two (2) days after the completion of any inspection covered in subsection 17-3.1, 17-3.3 and 17-3.4 the Fire Official shall either:

a. *Issue an inspection certificate indicating favorable findings as to matters which are embraced in the Uniform Fire Code and this section; or*

b. *If, in the opinion of the Fire Official, only minor violations are found to exist after the inspection, a temporary inspection certificate can be issued, permitting a new occupant to conditionally occupy the premises. This shall specify that the owner or operator has agreed to make all required repairs within fifteen (15) days after the receipt of such a temporary certificate. For the purpose of this paragraph, "minor violations" shall be construed to*

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mean violations whose correction would not exceed a total cost of two hundred (\$200.00) dollars and which do not present an immediate danger to health, safety or welfare of the occupant; or

c. Issue a written notice of violation to the owner or operator, prohibiting occupancy until re-inspection shall show the violations to have been corrected. This notice of violations must enumerate each violation of the Uniform Fire Code or Borough of Matawan ordinance found during the original inspection and give the owner or operator dates for the abatement of these violations.

17-3.4 CERTIFICATE OF OCCUPANCY INFORMATION CHECKLIST FOR RESIDENTIAL RESALE AND CHANGE OF RENTAL OCCUPANT.

a. No building shall be sold or transferred unless the owner shall have first obtained a Certificate of Occupancy.

1. Must meet the requirements of the BOCA National Property Maintenance Code/1993 Edition and all its updates.
2. Meet the requirements of the New Jersey Uniform Fire Code N.J.A.C. 5:18-2.3 Supp. 3-20-95 and all its updates regarding smoke and carbon monoxide detectors. CCO shall act as CSDCMAC
3. All electric outlets within six (6) feet of a sink must be ground fault protected.
4. Bathroom fixtures cannot be used as a source of power.
5. All electric wires must terminate in approved boxes.
6. All openings in electric boxes must be closed off.
7. Must have street numbers on house, visible from street; minimal size of numbers three (3) inches.
8. Handrails and guardrails must be in good condition.
9. Window panes must be in; none missing; no large cracks.
10. All electric outlets and switches must have approved plates installed.
11. All windows must be forty-five (45%) percent openable, and stay open, no supports.
12. All electric fuse boxes must have correct size fuses for their intended wire size use.
13. All electric circuit breakers must be of the correct size for their intended wire size use.
14. Connection of heating system metal stack where applicable to chimney must be in good condition.
15. No electric cords (wires) installed on or through walls, floor, ceiling, or from room to room.
16. Clothes dryer exhaust will be of noncombustible material.
17. The electric service will be one hundred (100) amps minimum.
18. All installed appliances must be installed as per manufacturer's instructions.
19. Smoke and CO detectors, one (1) on each level and within ten (10) feet of sleeping quarters must be in working order.
20. It will be the responsibility of the agent or owner in case of a central fire alarm system to be able to secure system for test by the inspector and after test to return system to normal code.
21. Please make sure the above items are in good order before calling for an inspection.
22. Please make out all checks to the Matawan Bureau of Code Enforcement.

Any residential unit that is sold or transferred without a Continued Certificate of Occupancy is in violation, and the buyer and seller are subject to fines.

All buildings and items (boilers, hot water heaters, pools, decks, finished basements, etc.) must have the proper permits in place as per the Construction Department records. If any building or items do not have construction permits, new permits must be taken out in that subcode and be inspected before a Continued Certificate of

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Occupancy can be issued.

The Continued Certificate of Occupancy inspection is to be in no way interpreted as a structural inspection. For your protection, you may wish to obtain an engineering or structural analysis.

17-3.4 CERTIFICATE OF OCCUPANCY INFORMATION CHECKLIST FOR RESIDENTIAL RESALE AND CHANGE OF RENTAL OCCUPANT

- a. *No building shall be sold or transferred unless the owner shall have first obtained a Certificate of Occupancy.*
 1. *Must meet the requirements of the BOCA National Property Maintenance Code/1993 Edition and all its updates.*
 2. *Meet the requirements of the New Jersey Uniform Fire Code N.J.A.C. 5:18-2.3 Supp. 3-20-95 and all its updates.*
 3. *All electric outlets within six (6) feet of a sink must be ground fault protected.*
 4. *Bathroom fixtures cannot be used as a source of power.*
 5. *All electric wires must terminate in approved boxes.*
 6. *All openings in electric boxes must be closed off.*
 7. *Must have street numbers on house, visible from street; minimal size of numbers three (3) inches.*
 8. *Handrails and guardrails must be in good condition.*
 9. *Window panes must be in; none missing; no large cracks.*
 10. *All electric outlets and switches must have approved plates installed.*
 11. *All windows must be forty-five (45%) percent openable, and stay open, no supports.*
 12. *All electric fuse boxes must have correct size fuses for their intended wire size use.*
 13. *All electric circuit breakers must be of the correct size for their intended wire sized use.*
 14. *Connection of heating system metal stack where applicable to chimney must be in good condition.*
 15. *No electric cords (wires) installed on or through walls, floor, ceiling, or from room to room.*
 16. *Clothes dryer exhaust will be of noncombustible material.*
 17. *The electric service will be one hundred (100) amps minimum.*
 18. *All installed appliances must be installed as per manufacturer's instructions.*
 19. *Smoke detectors, one (1) each level and within ten (10) feet of sleeping quarters must be in working order.*
 20. *It will be the responsibility of the agent or owner in case of a central fire alarm system to be able to secure system for test by the inspector and after test to return system to normal code.*
 21. *Please make sure the above items are in good order before calling for an inspection.*
 22. *Please make out all checks to the Matawan Bureau of Code Enforcement.*

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Any residential unit that is sold or transferred without a Continued Certificate of Occupancy is in violation, and the buyer and seller are subject to fines.

All buildings and items (boilers, hot water heaters, pools, deck, finished basements, etc.) must have the proper permits in place as per the Construction Department records. If any building or items do not have construction permits, new permits must be taken out in that subcode and be inspected before a Continued Certificate of Occupancy can be issued.

The Continued Certificate of Occupancy inspection is to be in no way interpreted as a structural inspection. For your protection, you may wish to obtain an engineering or structural analysis.

We are sorry for any inconvenience, but we cannot specify times when an inspection date is given. (Ord. No. 96-13)

Mayor Buccellato read by title Ordinance 13-06: Ordinance to Amend the Code of the Borough of Matawan Amending Chapter XIII Building and Construction - Section 13-3 Certificate of Occupancy Information Checklist for Residential Resale and Change of Rental Occupants. Mayor Buccellato requested a motion to introduce. Councilwoman Angelini made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

Public Hearings on these Ordinances will be held at their March 5, 2013 meeting.

**ORDINANCE 13-06
ORDINANCE TO AMEND THE CODE OF
THE BOROUGH OF MATAWAN
AMENDING CHAPTER XIII BUILDING AND CONSTRUCTION
SECTION 13-3 CERTIFICATE OF OCCUPANCY INFORMATION CHECKLIST FOR RESIDENTIAL
RESALE AND CHANGE OF RENTAL OCCUPANTS**

WHEREAS, the governing body of the Borough of Matawan wishes to update their current Code; and

WHEREAS, the Construction Official/Zoning Officer/Building Inspector and the Fire Inspector of the Borough of Matawan has recommended the following amendment to Chapter 15 – Building and Construction, Section 13-3 Certificate of Occupancy Information Checklist for Residential Resale and Change of Rental Occupants by moving this entire section to Chapter XVII Fire Prevention and Protection, Amending Section 17-3 Residential Resale Inspections and Rental Continued Certificates of Occupancy

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Matawan that Chapter 15 – Building and Construction, Section 13-3 Certificate of Occupancy Information Checklist for Residential Resale and Change of Rental Occupants is hereby amended in the Code of the Borough of Matawan.

Mayor Buccellato read by title Resolution 13-02-18: Payment of Bills. Mayor Buccellato requested a motion. Councilman Fitzsimmons made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano

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Councilwoman Angelini

Motion passed.

**RESOLUTION 13-02-18
PAYMENT OF BILLS - 2013**

BE IT RESOLVED by the Mayor and Council of the Borough of Matawan, New Jersey. That the following numbered vouchers be paid to the persons therein respectively and hereinafter named, for the amounts set opposite their respective names, and endorsed and approved on said vouchers and that warrants be issued therefore, directed to the Borough Collector signed by the Mayor and attested by the Borough Clerk as required by law.

<i>Current</i>	\$2,247,289.18
<i>Water & Sewer</i>	\$70,761.58
<i>Water Capital</i>	\$26,763.77
<i>Grant</i>	\$3,223.00
<i>Borough Trust</i>	\$116,099.72
<i>Developers Escrow Account</i>	\$123.00
<i>Railroad Parking Trust</i>	\$11,500.00
Total	\$2,475,760.25

Councilman Fitzsimmons requested the October 31, November 30 and December 31, 2012 Treasurer's Reports be added to the record.

Report of the Treasurer
To the Mayor and Council of the Borough of Matawan
Bank Balances as of October 31, 2012

Current Account	TD Bank	\$783,743.45
Tax Collector Trust Fund	TD Bank	\$0.00
Water & Sewer Account	TD Bank	\$590,094.73
Borough Capital Account	TD Bank	\$1,423,567.23
Utility Capital Account	TD Bank	\$281,478.03
Borough Trust Account	TD Bank	\$582,232.59
Boro Trust Summary – TD Bank	Cash Balances	
As of: October 31, 2012		
Fire Safety	\$26,210.48	
Fire Prevention/Dedicated Penalty	\$1,575.90	
Escrow	\$104,487.90	
Tax Redemptions	\$194,330.72	
POAA	\$954.44	
Donation	\$2,742.49	
Premiums	\$223,500.00	
Off Duty Police	\$21,022.50	
Public Defender	\$7,408.16	
Total	\$582,232.59	
Dog Tax Trust Account	TD Bank	\$216.13
Unemployment Insurance Account	TD Bank	\$5,164.78
Recreation Special Account	TD Bank	\$31,227.39
Recreation Trust Summary –TD Bank	Cash Balances	
As of: October 31, 2012		
Turkey Trot	\$15,269.41	
Summer Recreation	\$2,292.72	
Summer Recreation Trips	\$2,610.20	
Matawan Day	-\$762.30	
Basketball Tournament	-\$156.81	
Canoe Rentals	-\$1,368.10	
Men's Over 30 Basketball	\$1,804.00	
NNO Vender	\$0.00	

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Yoga/Kickboxing	\$709.00	
Fireworks Donations	\$1,108.94	
Capital Improvements	\$9,720.33	
Total	\$31,227.39	
Accutrack Developers Escrow Acct	TD Bank	\$242,377.83
Law Enforcement Account	TD Bank	\$7,443.72
Railroad Parking Lot Trust	TD Bank	\$83,970.78
Total		<u>\$4,031,516.66</u>

Respectfully,
(Signature on File)
Monica Antista

Report of the Treasurer
To the Mayor and Council of the Borough of Matawan
Bank Balances as of November 30, 2012

Current Account	TD Bank	\$2,611,410.40
Tax Collector Trust Fund	TD Bank	-\$1,108.47
Water & Sewer Account	TD Bank	\$395,923.66
Borough Capital Account	TD Bank	\$1,410,412.99
Utility Capital Account	TD Bank	\$33,464.38
Borough Trust Account	TD Bank	\$420,865.71
Boro Trust Summary – TD Bank As of: November 30, 2012	Cash Balances	
Fire Safety	\$26,210.48	
Fire Prevention/Dedicated Penalty	\$1,575.90	
Escrow	\$107,101.90	
Tax Redemptions	\$47,476.94	
POAA	\$954.44	
Donation	\$2,742.49	
Premiums	\$213,100.00	
Off Duty Police	\$14,284.40	
Public Defender	\$7,419.16	
Total	\$420,865.71	
Dog Tax Trust Account	TD Bank	\$213.73
Unemployment Insurance Account	TD Bank	\$7,977.74
Recreation Special Account	TD Bank	\$30,684.55
Recreation Trust Summary –TD Bank As of: November 30, 2012	Cash Balances	
Turkey Trot	\$14,726.57	
Summer Recreation	\$2,292.72	
Summer Recreation Trips	\$2,610.20	
Matawan Day	-\$762.30	
Basketball Tournament	-\$156.81	
Canoe Rentals	-\$1,368.10	
Men's Over 30 Basketball	\$1,804.00	
NNO Vender	\$0.00	
Yoga/Kickboxing	\$709.00	
Fireworks Donations	\$1,108.94	
Capital Improvements	\$9,720.33	
Total	\$30,684.55	
Accutrack Developers Escrow Acct	TD Bank	\$241,895.07
Law Enforcement Account	TD Bank	\$6,144.35
Railroad Parking Lot Trust	TD Bank	\$73,651.78
Total		<u>\$5,231,535.89</u>

Respectfully,

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(Signature on File)
Monica Antista

Report of the Treasurer
To the Mayor and Council of the Borough of Matawan
Bank Balances as of December 31, 2012

Current Account	TD Bank	\$1,974,625.49
Tax Collector Trust Fund	TD Bank	\$0.00
Water & Sewer Account	TD Bank	\$1,529,287.82
Borough Capital Account	TD Bank	\$718,187.95
Utility Capital Account	TD Bank	\$647,524.68
Borough Trust Account	TD Bank	\$896,598.62
Boro Trust Summary – TD Bank As of: December 31, 2012	Cash Balances	
Fire Safety	\$26,235.48	
Fire Prevention/Dedicated Penalty	\$1,600.90	
Escrow	\$106,395.65	
Tax Redemptions	\$368,557.05	
POAA	\$954.44	
Donation	\$2,742.49	
Premiums	\$357,800.00	
Off Duty Police	\$24,793.45	
Public Defender	\$7,519.16	
Total	\$896,598.62	
Dog Tax Trust Account	TD Bank	\$201.73
Unemployment Insurance Account	TD Bank	\$7,977.74
Recreation Special Account	TD Bank	\$23,790.55
Recreation Trust Summary –TD Bank As of: December 31, 2012	Cash Balances	
Turkey Trot	\$11,756.57	
Summer Recreation	\$978.92	
Summer Recreation Trips	\$0.00	
Matawan Day	-\$762.30	
Basketball Tournament	-\$156.81	
Canoe Rentals	-\$1,368.10	
Men's Over 30 Basketball	\$1,804.00	
NNO Vender	\$0.00	
Yoga/Kickboxing	\$709.00	
Fireworks Donations	\$1,108.94	
Capital Improvements	\$9,720.33	
Total	\$23,790.55	
Accutrack Developers Escrow Acct	TD Bank	\$239,693.73
Law Enforcement Account	TD Bank	\$6,144.85
Railroad Parking Lot Trust	TD Bank	\$255,552.28
Total		<u>\$6,299,585.44</u>

Respectfully,
(Signature on File)
Monica Antista

Mayor Buccellato read by title Resolution 13-02-17: Interlocal Agreement between the Township of Aberdeen and the Borough of Matawan for Shared Community Emergency Response Team Services. Mayor Buccellato requested a motion. Councilwoman Angelini made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Daly

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Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

RESOLUTION 13-02-17

**INTERLOCAL AGREEMENT BETWEEN THE TOWNSHIP OF ABERDEEN AND THE BOROUGH OF
MATAWAN FOR SHARED COMMUNITY EMERGENCY RESPONSE TEAM SERVICES**

THIS INTERLOCAL AGREEMENT is made this 4th day of February, 2013, by and between the Township of Aberdeen, a body politic having its offices located at One Aberdeen Place, Aberdeen, New Jersey 07747, hereinafter the "Township", and the Borough of Matawan, a municipal body politic having its offices at 201 Broad Street, Matawan, New Jersey 07747, hereinafter the "Borough" (collectively, the "Parties").

WHEREAS, the Township and the Borough are duly created public bodies corporate and politic of the State of New Jersey; and

WHEREAS, the federal government, in recognition of the need for citizens to be trained in the event of a local emergency, has allocated funding for State, county and local emergency management communities to establish Citizens Corps, which include such initiatives as a Community Emergency Response Team ("CERT"); and

WHEREAS, the Township and the Borough have, by Ordinance, each created a CERT which can provide essential assistance in the event of a bona fide emergency; and

WHEREAS, to maximize efficiency as well as the benefits to be provided by the CERTs, the Township and the Borough desire to coordinate the efforts of their respective CERTs; and

WHEREAS, it is in the best interests of both the Township and the Borough to enter into this Agreement providing for the shared services of the CERTs.

NOW, THEREFORE, with reference to the foregoing recitals, each of which is incorporated herein as part of this Agreement, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I

Purpose of this Agreement

Section 101. Purpose. The purpose of this Agreement is to provide for the shared services of the CERTs of the Township and the Borough.

ARTICLE II

Obligations of the Parties

Section 201. Shared Services. Each CERT will provide services to both the Township and the Borough.

Section 202. Members. All CERT members shall be at least eighteen (18) years of age and shall undergo mandatory training in areas such as disaster preparedness, disaster fire suppression, disaster medical operations, light search and rescue operations, disaster psychology and team organization, and anti-terrorism. Joint training for members of both CERTs shall take place in the Township and shall be conducted in accordance with the curriculum established by the Federal Emergency Management Agency (FEMA).

Section 203. Coordination of CERTs. Each CERT shall be under the supervision, and respond to the direction of, its respective municipality's Emergency Management Coordinator. The Township and the Borough shall collectively appoint one (1) person to coordinate efforts among the respective CERTs and to serve as the main correspondent to the Township and the Borough. The Township and the Borough also shall each appoint one (1) other person to serve as a secondary correspondent for each of the Township and the Borough and who shall work directly with the main correspondent.

Section 204. Shared Funds. All grants or other funding received by either the Township or the Borough for the CERT program shall be divided between the Township and the Borough in accordance with the proportionate size of each municipality.

Section 205. ALL PARTIES will perform all acts and services which are necessary, convenient or desirable to effectuate the purpose and intent of this Agreement as authorized by applicable laws and regulations.

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**ARTICLE III
Miscellaneous**

Section 301. Representatives.

A. Representative Authorized. The Parties herein have each been properly authorized to execute this Agreement. Each Party agrees that, to the fullest extent permitted by law, it shall at all times during the term of this Agreement be organized and structured in a manner such that it can be bound with respect to any matter affecting this Agreement by the signature of one individual acting as such Party's representative. Upon any Party's request made from time to time by notice to another Party, such Party shall within ten (10) days provide the other Party with notice of the name and address of such Party's representative. Each Party agrees that its representative will be reasonably available as needed to enable such Party to perform its obligations under this Agreement and that, to the extent permitted by law, such Party's representative will have full power to bind such Party as to any matter relating to this Agreement.

B. Change of Representative. Nothing in this Section shall be deemed to prevent a Party from replacing such Party's representative from time to time, by written notice to the other Parties.

C. Representatives of the Parties.

1. The Township designates the following individual as the Township's initial representative for purposes of this Agreement:

Township of Aberdeen
One Aberdeen Place
Aberdeen, NJ 07747

2. The Borough designates the following individual as the Borough's initial representative for purposes of this Agreement:

Sgt. Thomas Falco, OEM Coordinator
Borough of Matawan
201 Broad Street
Matawan, NJ 07747

Section 302. Notices, Demands and Communications Between the Parties.

A. Manner of Delivery. Except as otherwise expressly provided in this Agreement, all notices, demands, approvals, consents and other formal communications between the Parties required or permitted under this Agreement shall be in writing and shall be deemed given and effective upon the date of receipt of a facsimile to the facsimile number set forth below or such other number as may be provided from time to time by notice given in the manner required under this Agreement. A notice may be given by a Party's attorney on behalf of such Party.

B. Addresses for Notices. All notices shall be properly addressed and delivered to the Parties at the addresses set forth below or at such other addresses as either Party may designate by written notice given in the manner provided in this Section:

To the Township: _____
Township of Aberdeen
One Aberdeen Place
Aberdeen, NJ 07747

Facsimile: (732) 583-7204

with a copy to: Daniel McCarthy, Esq.
Rogut McCarthy, LLC
37 Alden Street
Cranford, NJ 07016
Facsimile: (908) 931-1151

To the Borough: _____
Borough of Matawan
201 Broad Street
Matawan, NJ 07747
(732) 290-7585

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with a copy to: *Pasquale Menna, Esq.
The Menna Law Firm, LLC
151 Bodman Place, 3rd Floor, Ste. 300
Red Bank, NJ 07701
Facsimile: (732) 383-8274*

Section 303. Further Assurances. *Each Party agrees to execute and deliver such further documents, and perform such further acts, as may be reasonably necessary to achieve the intent of the Parties with respect to this Agreement. Without limiting the generality of this paragraph, upon request at any time or from time to time any Party hereto shall execute and deliver to the other, additional counterparts of this Agreement or any related documents, provided such additional counterparts are prepared at the expense of the Party requesting them.*

Section 304. Applicable Law. *This Agreement shall be construed in accordance with and governed by the internal laws (without reference to choice or conflict of laws) of the State of New Jersey.*

Section 305. Incorporation of Recitals. *The Recitals to this Agreement and the Definitions contained within this Agreement are hereby incorporated by reference and are considered part of this Agreement.*

Section 306. Paragraph Headings. *The headings and numbering of paragraphs and Sections of this Agreement are set forth for ease of reference only and are not to be construed or considered to impart meaning to any provision of this Agreement.*

Section 307. No Third Party Beneficiaries. *No person or entity other than the Parties shall have any right, benefit or obligation under this Agreement as a third party beneficiary or otherwise.*

Section 308. Interpretation. *This Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted in favor of any particular Party. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any portion of this Agreement. Each of the Parties has participated substantially in the negotiation, drafting and revision of this Agreement with representation by counsel and/or such other advisers as they have deemed appropriate.*

Section 309. Amendments and Waivers. *This Agreement may only be amended in a writing signed by the Parties. Any provision of this Agreement may only be waived in a writing signed by the Party against whom the waiver is to be effective.*

Section 310. Counterparts. *This Agreement may be executed in counterparts, each of which shall constitute an original of this Agreement but all of which, together, shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.*

IN WITNESS WHEREOF, *the Parties here caused this Agreement to be duly executed by their respective authorized officers as of the date first set forth above.*

Attest: *The Township of Aberdeen*

Attest: *The Borough of Matawan*

Jean B. Montfort, RMC *Honorable Paul Buccellato, Mayor*

Mayor Buccellato read by title Ordinance 13-07: Ordinance Establishing a “Community Emergency Response Team” for the Borough of Matawan. Mayor Buccellato requested a motion to introduce. Councilwoman Angelini made the motion, seconded by Councilwoman Gould. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Daly
Councilman Fitzsimmons
Councilwoman Gould
Councilwoman Clifton
Councilman Urbano
Councilwoman Angelini

Motion passed.

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**ORDINANCE ESTABLISHING A “COMMUNITY EMERGENCY
RESPONSE TEAM” FOR THE BOROUGH OF MATAWAN**

WHEREAS, the federal government, in recognition of the need for citizens to be trained in the event of a local emergency, has allocated funding for State, county and local emergency management communities to establish Citizens Corps, which include such initiatives as a Community Emergency Response Team (“CERT”); and

WHEREAS, the Borough of Matawan (the “Borough”) has previously appointed Sgt. Thomas Falco of the Borough of Matawan Police Department as its Emergency Management Coordinator; and

WHEREAS, the Sgt. Thomas Falco will be actively involved in the creation, recruitment and training of a volunteer CERT, which, when requested by the Borough’s Emergency Management Coordinator, can provide essential assistance in the event of a bona fide emergency; and

WHEREAS, it is in the best interests of the citizens of the Borough to formalize the creation of the Borough’s CERT.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Matawan, in the County of Monmouth, New Jersey, as follows:

- 1. It is hereby established in the Borough a volunteer CERT.*
- 2. The CERT shall consist of up to fifty (50) members, all of whom shall be under the supervision, and respond to the direction of, the Borough’s Emergency Management Coordinator.*
- 3. Members of the CERT shall be appointed by the Borough Council and shall serve terms of one (1) year. CERT members shall be at least eighteen years of age and shall undergo mandatory training in areas such as disaster preparedness, disaster fire suppression, disaster medical operations, light search and rescue operations, disaster psychology and team organization, and anti-terrorism. Such training shall be organized by the Borough and in accordance with the curriculum established by the Federal Emergency Management Agency (FEMA).*
- 4. CERT members serving multiple terms shall be required to undergo continuing training as required by the Borough.*
- 5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a Court of competent jurisdiction, such invalidity shall not affect other provisions of the Ordinance and to this end the provisions of this Ordinance are declared to be severable.*

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Mayor Buccellato cited the joint efforts of both Aberdeen and Matawan introducing Sgt. Thomas Falco, Borough of Matawan OEM Coordinator, and Herb Caravella, CERT Coordinator – Aberdeen & Matawan. Mr. Caravella and Sgt. Falco thanked everyone involved and provided a brief overview of the CERT team goals.

Privilege of the Floor

Mayor Buccellato opened the Privilege of the Floor.

There were no comments.

Mayor Buccellato closed the Privilege of the Floor.

Adjournment

Mayor Buccellato requested a motion to adjourn. Councilwoman Clifton made the motion, seconded by Councilwoman Gould. Council agreed. Motion passed.

Meeting adjourned at 7:41 PM.