

ORDINANCE NO. 08-22

ADOPTING ORDINANCE

**AN ORDINANCE ADOPTING A REVISION AND CODIFICATION
OF THE ORDINANCES OF THE BOROUGH OF MATAWAN
IN THE COUNTY OF MONMOUTH, NEW JERSEY**

WHEREAS, the Borough Council of the Borough of Matawan in the County of Monmouth, New Jersey, has caused its ordinances of a general and permanent nature to be amended and supplemented and to be compiled and revised and embodied in a revision and codification known as "The Revised General Ordinances of the Borough of Matawan, 2008."

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MATAWAN IN THE COUNTY OF MONMOUTH, NEW JERSEY, AS FOLLOWS:

Section 1. The ordinances of the Borough of Matawan in the County of Monmouth, New Jersey, of a general and permanent nature, as codified, Chapters 1 to 34, are hereby ordained as "The Revised General Ordinances of the Borough of Matawan, 2008."

Section 2. All of the provisions of "The Revised General Ordinances of the Borough of Matawan, 2008" shall be in force and effect on and after the effective date of this ordinance.

Section 3. All ordinances of a general and permanent nature, adopted by the Borough Council (hereafter referred to as the "Council") and in force on July 1, 2008, and not contained in "The Revised General Ordinances of the Borough of Matawan, 2008" are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided in Section 4.

Ordinance No. 05-07, "An Ordinance adding Chapter 305-, Commuter, Private Parking Lots—of the Revised General Ordinances of the Borough of Matawan, County of Monmouth and State of New Jersey," which was adopted April 5, 2005, is specifically repealed by the adoption of this ordinance.

Section 4. The repeal provided for in Section 3 of this ordinance shall not affect:

a. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;

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- b. Any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance;
- c. Any right or franchise conferred by the Council;
- d. Any right, right-of-way or easement acquired or established in any street, road, highway or other public place within the Borough;
- e. Any ordinance of the Borough providing for laying out, opening, altering, widening, relocating, straightening, accepting or vacating of any street, road or highway within the Borough;
- f. Any ordinance or resolution of the Borough promising or guaranteeing the payment of money by or for the Borough or authorizing the issuing of bonds or other evidence of the Borough's indebtedness, or any contract or obligation assumed by the Borough;
- g. The annual budget appropriation ordinances or resolutions, and all ordinances and resolutions appropriating or transferring funds;
- h. The administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of this Revision;
- i. Any ordinance or resolution of the Council fixing compensation or salaries of the Borough officials and employees or the pay and compensation of positions and clerical employments which are not provided for in this Revision and which are not in conflict or inconsistent therewith;
- j. Any ordinance or resolution of the Council creating employments, positions or offices and fixing duties therefor which are not provided for in this Revision and which are not in conflict or inconsistent therewith;
- k. Concerning the Traffic Chapter, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this ordinance shall not become effective with respect to any ordinance regulating traffic or parking on the public streets or highways until the traffic chapter of this Revision is finally approved by the Commissioner of the New Jersey Department of Transportation, and said chapter shall not take effect until finally approved by the Commissioner as aforesaid;
- l. Ordinance No. 07-09 "An Ordinance amending Chapter 2-20 "Recreation Commission" of the Borough of Matawan to Expand the Commission by Adding Two Regular and One Alternate Membership Classifications to the Recreation Commission" adopted April 4, 2007;
- m. Any ordinances adopted by the Board of Health of the Borough of Matawan;
- n. Any ordinances of the Borough Council adopted upon final passage after the 1st day of July, 2008.

Section 5. The effect of proposed changes contained in the Revision is listed below:

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Revisions have been incorporated into the text under the direction of the Borough Attorney and Municipal Officials.

Chapter 1: General Provisions.

Portions of Chapter 1 are continuations of sections from the 1971 Code.

Section 1-1, Short Title, is revised to reflect the 2008 Code.

Section 1-2, Definitions, includes new definitions for use within the entire Code or when drafting future ordinances of the Borough.

Section 1-5, Penalty, is revised to contain new penalty provisions as provided by Statute. The general penalty clause is applicable to the entire Revision or any other ordinance. In subsection 1-5.1, Maximum Penalty, a maximum penalty of a fine not exceeding two thousand (\$2,000.00) dollars and/or imprisonment for a term not to exceed ninety (90) days and/or a period of community service not to exceed ninety (90) days is established in accordance with State Statutes. Subsection 1-5.1 eliminates the need to restate the maximum penalty clause each time a new regulatory ordinance is adopted. Subsection 1-5.2, Minimum Penalty, permits the Borough Council to establish a minimum penalty for a particular ordinance which may be a fine that does not exceed one hundred (\$100.00) dollars. Subsection 1-5.3, Powers of the Court, provides that the court may impose any fine, term of imprisonment or period of community service not less than the minimum or exceeding the maximum established.

Subsection 1-5.4, Additional Fine for Repeat Offenders, provides that additional fines may be imposed on any person who is convicted of the same violation within one (1) year of the date of the previous violation. Subsection 1-5.5, Default of Payment of Fine, provides that any person who defaults on payment of a fine may be imprisoned in the County Jail or be required to perform community service.

Subsection 1-5.6, Violations of Housing or Zoning Codes; Time Permitted to Abate Condition; Hearing, provides that if the Borough imposes a fine greater than one thousand two hundred fifty (\$1,250.00) dollars for a violation of a housing or zoning code, the owner shall be afforded a 30-day period to abate the condition.

Subsection 1-5.7, Separate Violations, provides that each and every day a violation exists shall constitute a separate violation. Subsection 1-5.8, Application, states that the amount of any particular penalty is at the discretion of the Judge of the Municipal Court.

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Throughout the Code penalty provisions have been revised to refer to Section 1-5.

Section 1-6, Severability, provides for the severability of unconstitutional or unenforceable Code provisions.

Section 1-7, relating to Maintenance of the Code, is new and provides that the Municipal Clerk shall keep the Code up-to-date and provides that the Borough Council shall arrange for supplementation.

Section 1-8, Additions and Amendments to the Code, provides that when ordinances are adopted with the intention of making them part of the Code, they shall be deemed incorporated into the Code.

Section 1-9, Sale of Code Book Supplements Provided, provides that the copies of the Code may be purchased from the Municipal Clerk upon payment of the required fee.

Section 1-10, Tampering with Code Provisions, prohibits unauthorized changes or misrepresentation in the Code.

Chapter 2: Administration.

This Administrative Chapter has been organized into nine (9) articles as follows:

- Article I Mayor and Borough Council;
- Article II Meetings of the Governing Body;
- Article III Offices Created;
- Article IV Administrative Organization of the Departments of Local Government;
- Article V Municipal Court;
- Article VI Boards, Committees and Commissions;
- Article VII Fiscal Policies;
- Article VIII Administrative Policies and Procedures;
- Article IX Administrative Fees and Charges.

In Article I, subsection 2-1.1 states "This Governing Body shall consist of the Mayor and six (6) Councilmembers....." Subsection 2-1.3, Ordinances and Resolutions, is new and provides that Council shall codify or compile ordinances and resolutions. Subsection 2-1.5, Qualifications to Fill Vacancy, provides that a vacancy in the Office of the Mayor or a Member of Council shall be filled according to Statutes.

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Subsection 2-2.1, Powers and Duties of the Mayor, has been amended to add "The Mayor shall have all of the powers granted by the laws of New Jersey and the ordinances of the Borough."

Subsection 2-3.1, Powers of the Council, has been amended to state that pursuant to Statutes, the Council may at the annual meeting establish for its members such committees of the Council as will assist it for the ensuing year.

Section 2-4, Compensation of Mayor and Borough Council, is new and provides that the Mayor and Members of Council shall receive compensation as established by ordinance of the Borough Council.

Subsection 2-5.2, Meeting Open to the Public, includes provisions to comply with the Open Public Meetings Act.

Subsection 2-6.1, Procedure for Passage; Vote Required, has been amended to state that budgetary and financial ordinances require the affirmative vote of four (4) members of Council.

Subsection 2-6.2, Publication of Ordinances, has been revised to provide that redacted and summarized versions of ordinances may be published as permitted by law.

Section 2-8, Municipal Clerk, has been revised to include the qualifications for appointment and compensation of the Municipal Clerk, and include the powers and duties pursuant to Statutes.

Section 2-9.2, Powers, Duties, Responsibilities (of the Business Administrator), has been amended to add a requirement to prepare a monthly report of ongoing projects.

Article II, Administrative Organization of the Departments of Local Government has been revised in subsection 2-11.1 to include all the current Boards and Commissions.

Subsection 2-12.2, Chief Financial Officer, has been amended to state that the Chief Financial Officer shall be subject to tenure when reappointed.

Subsection 2-12.5, Tax Collector, is new and provides for the appointment, qualifications, term and compensation for this office.

Subsection 2-12.7, Tax Assessor, has been revised to provide the qualifications and duties of this office.

Subsection 2-15.8, Active Duty (Fire Department), has been revised to require that the individual companies shall maintain service records.

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Subsection 2-15.9, Active Reserve, has been revised in paragraph h. to provide a procedure for the grievant to request a review by the Borough Council.

Subsection 2-15.10, Volunteer Firefighter's Insurance Coverage, has been revised to provide specific amounts of insurance in case of line of duty death.

Subsection 2-16.2, Qualifications, Powers and Duties (Superintendent of Public Works), has been amended to add "The Superintendent shall complete and maintain the Certified Public Works Manager Program and certificate as required by Law."

Subsection 2-17.2, Powers and Duties of Attorney, has been amended to add "Undertake legal reviews and opinions at the direction of the Borough Administrator.

Subsection 2-24.3, Municipal Court Administrator, has been revised to refer to the "Court Administrator."

Section 2-25, Borough Prosecutor, has been revised to state that the Prosecutor shall function under the Monmouth County Prosecutor and the State Attorney General.

Section 2-30, Board of Health Advisory Committee, the Board of Health has been revised to be an Advisory Committee.

Subsection 2-70.2, Fees for Copies, has been amended to add paragraph b,2 "Motor vehicle reports by mail: Copy fees plus actual postage for mail."

Throughout the Code, references have been revised to refer to the Construction Official, the State Uniform Construction Code, the Unified Planning Board, the Borough Engineer and/or the proper enforcing official as required by the text.

Chapter 3: Police Regulations.

This chapter contains the regulations enforced by the Police Department which include Noise Control, Litter, Drug-free Safety Zones; Consumption of Alcoholic Beverages in Public Places; Abandoned Motor Vehicles; Off-Road Vehicles; Fireworks; Sex Offender Residency Prohibition, and Graffiti. The regulation prohibiting Loitering is repealed and has been deleted from the Code.

Section 3-9, Sex Offender Residency Prohibition, has been revised to state "The Borough of Matawan will adhere to the Monmouth County Guidelines."

Chapter 4: Licensing and Business Regulations.

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This chapter contains the general requirements to apply for a license, the requirements for a general business license, license requirements for peddlers, hawkers and vendors; solicitors and canvassers; retail food establishments; sidewalk cafes and restaurants; mechanical and electronic amusement devices; licensing of taxicabs and drivers; limousines and livery services; towing and vehicle storage contractors; motor vehicle service stations and pawnbrokers.

Subsection 4-3.5, Time Restrictions (for Peddlers, Hawkers and Vendors), has been revised to prohibit sales before 9:00 a.m. or after 7:00 p.m.

Subsection 4-4.7, Time Restrictions (for Solicitors and Canvassers), has been revised to prohibit activities before 10:00 a.m. or after 7:00 p.m.

Subsection 4-5.3, Fees (Retail Food Establishments) is new, establishes a fee schedule for retail food establishments.

Subsection 4-6.7, Operation not to Impede Pedestrian or Vehicular Traffic, has been revised to state the County Board of Health shall verify passageway complies with A.D.A. accessibility.

Chapter 5: Animal Control.

This chapter contains provisions governing the licensing and control of dogs; dog canvass, vicious dogs, impounding, the removal of pet waste, pet shops, kennels and pounds, and the prohibition on feeding wildlife.

Subsection 5-2.5, Fees; Late Charges, the late fee has been increased to ten (\$10.00) dollars. In this chapter references to the dog warden have been revised to refer to the "Animal Control Officer."

Subsection 5-12.5, License Fees (Pet Shops, Kennels, Shelters, Pounds), the fees are revised to agree with Statutes.

Chapter 6: Alcoholic Beverage Control.

The existing Borough ordinances on this subject have been rearranged for purposes of topical sequence.

Section 6-6, Persons Under the Legal Age, has been revised to provide the penalty for persons under the legal age as contained in N.J.S.A. 33:1-81.

Chapter 7: Traffic.

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This chapter contains the Traffic Ordinances of the Borough placed in accordance with the model of organization that has been recommended by the State of New Jersey Department of Motor Vehicles. This chapter may not be enforced until approval is obtained from the Commissioner of the New Jersey State Department of Transportation. New and revised street regulations are included as they have been recommended by the New Jersey Department of Transportation and approved by the Bureau of Traffic Engineering of the Department of Transportation.

Chapter 8: Reserved.

Chapter 9: Personnel Policies.

Personnel policies as adopted by the Governing Body by ordinance have been included in this chapter without revision.

Subsection 9-4.4, Sick Leave; 9-4.6, Bereavement Leave; 9-4.7, Outside Employment and 9-5, Disciplinary Action, have been amended to refer to the Matawan Personnel Policies and Procedures Manual.

Subsection 9-4.5, Extended Leave, has been revised to provide as follows: "After using thirty (30) days of sick leave, any regular full-time employee of the Borough who shall be injured, ill or disabled..."

In subsection 9-4.7, Outside Employment, the last sentence has been revised to state "...or if, in the case of a full-time employee of the Borough, such outside employment shall not exceed twenty (20) hours per week."

Section 9-12 is new and requires Mandatory Language in Health Insurance Plan Document.

Chapter 10: Use of Municipal Buildings.

This chapter contains the fees for use of the Municipal Community Center and the Municipal Community Complex Building.

Chapter 11: Parks and Recreational Areas.

This chapter regulates conduct in public parks and recreational areas, establishes hours for use of parks, prohibits the use of motor boats and mechanized vehicles on any lake; contains parking restrictions for designated parking areas and contains the requirements to obtain a permit to host a special event.

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Chapter 12: Reserved.

Chapter 13: Building and Construction.

Chapter 13 contains the ordinances establishing the State Uniform Construction Code Enforcing Agency and the construction fee schedule; the documentation of disposal of recyclable and hazardous materials; demolition of buildings; checklist for a certificate of occupancy for residential resale and change of rental occupancy and the permit which is required to construct a private swimming pool.

Chapter 14: Housing and Rental Housing.

This chapter includes the New Jersey State Housing Code; registration of rental housing units; landlord's license required to rent residential property; rental property registration and inspection and the fee schedule.

Chapter 15: Property Maintenance.

The chapter contains all the regulations and requirements required for maintenance of property. Article I contains regulations applicable to all properties; Article II includes the 2006 International Property Maintenance Code; Article III includes "The Commercial Property and Rental Dwelling Maintenance Code." In this chapter references to the "building inspector" have been revised to refer to the "Property Maintenance Officer or designated official" or the "Fire Official or other designated official."

Chapter 16: Public Swimming Pools.

This chapter contains the requirements for bonding and grounding certificate for the operation of a public swimming pool.

Chapter 17: Fire Prevention and Protection.

Included in this chapter are: the Uniform Fire Safety Act Enforcing Agency; the fee schedule for permits and inspections; the requirements for key boxes and Knox Box HazMat Cabinets; fire alarm systems and the designation of fire lanes.

Subsection 17-1.7, Appeals, has been revised to provide appeal to the Monmouth County Construction Board of Appeals.

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Chapter 18: Reserved.

Chapter 19: Flood Protection.

The regulations concerning flood protection are continued from the previous Code.

Chapter 20: Solid Waste Management.

This chapter requires the separation of solid waste and mandatory recycling of designated items and the yard waste collection program.

Chapter 21: Streets and Sidewalks.

This chapter contains the requirements for openings in streets, sidewalks, curbs and driveways; the removal of snow and ice from sidewalks; and the display of house numbers.

In subsection 21-1.2, Permit for an Excavation in Streets Required; Fees, the application fee has been raised to one hundred (\$100.00) dollars and requires the obtaining of a permit from the Borough Engineer.

In subsection 21-1.3 paragraph d. is new, which establishes an inspection fee escrow, which shall be ten (10%) percent of the cash performance guarantee with a minimum fee of two hundred fifty (\$250.00) dollars.

In subsection 21-1.6, Maintenance and Repair, new requirements for paving materials have been added.

In subsection 21-1.8, Time for Opening of Improved Streets Restricted, has been amended to require that in the case of an emergency utility repair or a formal action by the Governing Body, pavement repair shall be made utilizing technology such as infrared methods to provide a seamless patch to the road surface.

In Section 21-3, House Numbers, subsection 21-3.5, New Numbers has been revised to state "The Borough Engineer, in conjunction with the 911 Coordinator of the Police Department, shall assign a number to each lot..."

Chapter 22: Water.

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This chapter codifies the regulations concerning application for water service, changes and meter requirements; payment of charges and unpaid charges; acts prohibited, access to premises and credit against water bill.

Subsection 22-1.1, Application for Water Service, has been amended to state "All applications for water service shall be made to the Borough Engineer."

Subsection 22-2.1, Accuracy of Meters; Fee, has been amended to state that if an accuracy check is requested by the customer, the customer shall pay the fee charged by the testing facility.

In subsection 22-2.2, Water Rates, the fees for water use have been increased. In paragraph c. of subsection 22-2.3, the cost of a new meter is established at one hundred seventy-five (\$175.00) dollars.

Subsection 22-2.4, Turn Off or Turn On Charge; Final Reading Charge; Shut Off Taps; Construction Site Fees; Hydrant Use, has been amended to establish a fee of twenty-five (\$25.00) dollars for turning off or on.

Paragraph b., Cost of Water Usage from Hydrant, has been amended to require that the "Matawan Water Department" personnel connect a meter and a back-flow preventer, and that the owner and general contractor shall pay for the actual amount of water used.

Chapter 23: Sewers.

This chapter contains the establishment of the Water and Sewer Committee and all regulations that have been adopted pertinent to sewer use in the Borough.

In Section 23-5, User Classes, paragraph b. has been amended to include commercial establishments such as beauty parlors, funeral homes and car washes.

Section 23-12, Abandonment of Cesspools and Septic Systems; Closing Procedure, has been amended to state "Abandoned systems shall be certified as properly abandoned by the County Health Officer."

Chapter 24: Protection of Trees.

This chapter contains the regulations for the protection of trees and the permit requirements for the removal of trees.

Chapter 25: Cable Television.

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This chapter codifies the Municipal Consent Ordinance with Cablevision of Monmouth, Inc.

Chapter 26: Soil and Soil Removal.

The soil removal regulations are complete in this chapter.

Subsection 26-1.3, Permit Required, has been amended to state "The permit fee shall be one hundred (\$100.00) dollars.

Chapter 27: Environmental Regulations.

This chapter contains the regulations prohibiting the improper disposal of waste in the separate storm sewer system and the prohibition of illicit connections to the storm sewer system.

Chapter 28: Reserved.

Chapter 29: Reserved.

Chapter 30: Land Use Procedures.

This chapter establishes the Land Use Procedures regulations for the Borough of Matawan. All references to the Planning Board or the Zoning Board of Adjustment shall now refer to the Unified Planning/Zoning Board of Adjustment.

Chapter 31: Reserved.

Chapter 32: Reserved.

Chapter 33: Reserved.

Chapter 34: Development Regulations.

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This chapter adopts the Development Regulations adopted by Ord. No. 98-21 on August 18, 1998.

In Section 34-27, Design Standards, paragraph i is new and provides that all stormwater management measures for development shall be designed in accordance with and comply with the provisions of Article XIII, Stormwater Control and Stormwater Management Procedures. The title of subsection 34-85.4 has been renamed "Design of Stormwater Detention Facilities for Non-Major Development."

In Section 34-90, Performance Standards, paragraph c. has been revised as follows: All stormwater management measures for development regardless of use, including structural stormwater strategies, detention basins and other stormwater management facilities and stormwater collection and conveyance structures, shall be designed in accordance with Article XIII, Stormwater Control and Stormwater Management Procedures and Residential Site Improvement Standards.

Throughout the Code editorial revisions have been made to refer to the proper municipal official, as Construction Officer, Chief Financial Officer, or the inclusion of a statutory reference.

In many instances references to a penalty have been revised to refer to "the penalty as stated in Chapter I, Section 1-5."

During the editorial process of preparing this Code, there has been reorganization and editing of the source ordinances, not to effect substantive changes but intended to eliminate word duplications and overlapping and to effect uniformity of expression. In some cases provisions of the source ordinances have not been included in the Revision either because they have been expressly or impliedly repealed by later ordinances, are obsolete or no longer apply in the Borough of Matawan.

Section 6. A copy of "The Revised General Ordinances of the Borough of Matawan, 2008" in the County of Monmouth and State of New Jersey, has been filed in the office of the Municipal Clerk of the Borough of Matawan and shall remain there for the use and examination of the public until final action is taken on this ordinance; and if this ordinance shall be adopted, such copy shall be certified to the Clerk in the Borough of Matawan by impressing thereon the seal of the Borough of Matawan, as provided by law, and such certified copy shall remain on file in the office of the Municipal Clerk of the Borough of Matawan to be made available to persons desiring to examine the same during all times while the Revision is in effect.

Section 7. Amendments to the Revision. Any and all additions, amendments and supplements to the Revision when passed and adopted in such form as to indicate the

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intent of the Borough Council to make them a part thereof shall be deemed to be incorporated into such revisions so that reference to "The Revised General Ordinances of the Borough of Matawan, 2008" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments and supplements to the Revision shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the book containing the Revised General Ordinances as amended and supplemented thereto.

Section 8. It shall be the duty of the Municipal Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing "The Revised General Ordinances of the Borough of Matawan, 2008," required to be filed in his or her office for the use of the public. All changes in the Revision and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Revision and shall when finally adopted be included therein by reference until such changes or new ordinances are printed as supplements to the Code, at which time such supplements shall be inserted therein.

Section 9. The Municipal Clerk of the Borough of Matawan, pursuant to law, shall cause to be published in the manner required a copy of this adopting ordinance in a newspaper of general circulation in the Borough of Matawan. Sufficient copies of "The Revised General Ordinances of the Borough of Matawan, 2008" shall be maintained in the office of the Municipal Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Revision for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Revision for all purposes.

Section 10. Copies of the book containing "The Revised General Ordinances of the Borough of Matawan, 2008," may be purchased from the Municipal Clerk upon the payment of a fee to be set by resolution of the Council which may also arrange by resolution the procedures for the periodic supplementation thereof.

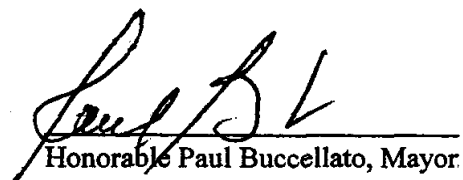
Section 11. Each section of "The Revised General Ordinances of the Borough of Matawan, 2008," and every part of each section is an independent section or part of a section and the holding of any section or part thereof deemed to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

Section 12. This ordinance shall take effect immediately upon final passage and publication thereof according to law.

Introduced: November 18, 2008

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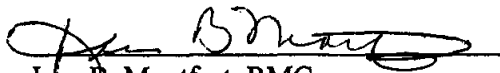
Adopted: December 16, 2008
Approved: November 18, 2008


Honorable Paul Buccellato, Mayor

CERTIFICATION OF ORDINANCE

I, Jean B. Montfort, Borough Clerk of the Borough of Matawan, County of Monmouth, and State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an ordinance adopted by the Borough Council of the Borough of Matawan on December 16, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the Borough of Matawan this 16th day of December, 2008.


Jean B. Montfort, RMC
Municipal Clerk