
Mantoloking Borough

Municipal Public Access Plan

Submitted by:
Borough of Mantoloking
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Date of Current Submittal: June 2016

Approved by the New Jersey Department of Environmental Protection:

{Date of NJDEP Approval}

Adoption by the Borough

{Date of Municipal Adoption}

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Approval of this plan does not eliminate the need for any Federal, State, County or municipal permits, certifications, authorizations or other approvals that may be required by the Applicant, nor shall the approval of this plan obligate the Department to issue any permits, certifications, authorizations or other approvals required for any project described in this plan.

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Introduction

The intent of this document is to provide a comprehensive public access plan for Mantoloking Borough which lays out their vision for providing access to tidal waters and shorelines within the municipal boundary. This Municipal Public Access Plan (MPAP) was developed in accordance with N.J.A.C. 7:7E-8.11 and in collaboration with the New Jersey Department of Environmental Protection (NJDEP), and has been approved by the NJDEP. The development and implementation of this MPAP supports the policy of local determination of public access locations and facilities, while safeguarding regulatory flexibility and potential funding opportunities for Mantoloking Borough.

Public rights of access to and use of the tidal shorelines and waters, including the ocean, bays, and tidal rivers, in New Jersey are founded in the Public Trust Doctrine. First set by the Roman Emperor Justinian around A.D. 500 as part of Roman civil law, the Public Trust Doctrine establishes the public's right to full use of the seashore as declared in the following quotation from Book II of the Institutes of Justinian:

"By the law of nature these things are common to all mankind – the air, running water, the sea, and consequently the shores of the sea. No one, therefore, is forbidden to approach the seashore, provided that he respects habitations, monuments, and the buildings, which are not, like the sea, subject only to the law of nations."

Influenced by Roman civil law, the tenets of public trust were maintained through English Common Law and adopted by the original 13 colonies. Following the American Revolution, the royal right to tidelands was vested to the 13 new states, then to each subsequent state, and has remained a part of public policy into the present time. Through various judicial decisions, the right of use upheld by the Public Trust Doctrine has been incorporated into many state constitutions and statutes, allowing the public the right to all lands, water and resources held in the public trust by the state, including those in New Jersey.

The NJDEP adopted new rules governing public access proposed on October 4, 2012 that enable municipalities to develop and adopt MPAPs to govern public access within their municipality. This MPAP consists of an inventory of public access locations, plus plans to preserve and enhance access based on community needs and State standards.

On June 5, 2012 representatives from Mantoloking Borough met with NJDEP staff to begin the public access planning process. This plan was then developed in collaboration with the NJDEP, Borough Planning Board, the Borough of Mantoloking Municipal Public Access Plan Committee, Mantoloking Environmental Commission, Mantoloking Beach and Dune Committee, Hatch Mott MacDonald, LLC, and community groups that participated. The Mantoloking Municipal Public Access Plan was approved for submission to the NJDEP per the June 10, 2016 Memorandum attached herewith in Appendix 4. Upon receiving approval from the NJDEP on {date}, the MPAP was incorporated into the Land Use Element of the Master Plan by resolution on {date}. Incorporation into the Master Plan, and final approval of this MPAP by the NJDEP, was recognized by Public Notice in the NJDEP Bulletin. All public access decisions made within Mantoloking Borough will be consistent with this plan.

Authority for Municipal Public Access Plans

The authority for a municipality to develop a MPAP is derived from the Coastal Zone Management Rules, N.J.A.C. 7:7E, adopted by NJDEP on November 5, 2012. The premise of the authorization of

Municipal Public Access Plans is that public access to tidal waters is fundamentally linked to local conditions. Municipalities have a better awareness and are more responsive to these conditions than a broader State “one size fits all” mandated public access plan.

The voluntary development of a MPAP by Mantoloking Borough enables the municipality to better plan, implement, maintain, and improve the provision of public access for its residents and visitors. The MPAP will be incorporated into the Land Use Element of the municipality’s Master Plan, in accordance with the Municipal Land Use Law (N.J.S.A 40:55D). The MPAP, as an official component of the municipal Master Plan, informs and/or identifies public access requirements or goals associated with any proposed development or redevelopment project.

Upon approval of the MPAP by the Department and incorporation into the Master Plan, Mantoloking Borough will be responsible for ensuring that public access to tidal waterways along the municipality’s shorelines is provided in accordance to this plan. For each new public access project, Mantoloking Borough will provide NJDEP with a letter confirming its consistency with this MPAP. Any permit issued by the NJDEP will reflect this and ensure that public access requirements are satisfied in accordance to this plan. Per N.J.A.C. 7:7E -8.11(j)4, Mantoloking Borough is required to submit a progress report on plan implementation to NJDEP within five (5) years from date of plan adoption.

The sections of this plan as indicated below are prescribed by the Coastal Zone Management Rules, N.J.A.C. 7:7E, adopted by NJDEP on July 15, 2013. See Appendix 1.

State of New Jersey Public Access Goals

Through the New Jersey Coastal Zone Management Rules (see N.J.A.C 7:7E-1.1 (c)), the State of New Jersey establishes a broad set of coastal protection goals, including the following specifically addressing public access:

- Effectively manage ocean and estuarine resources through sustainable recreational and commercial fisheries, as well as through the safe and environmentally sound use of coastal waters and beaches;
- Provide meaningful public access to and use of tidal waterways and their shores;
- Preserve public trust rights to tidal waterways and their shores;
- Preserve and enhance views of the coastal landscape to enrich aesthetic and cultural values and vital communities;
- The enhancement of public access by promoting adequate affordable public facilities and services;
- Create and enhance opportunities for public access to tidal waterways and their shores, on a non-discriminatory basis;
- Maintain all existing public access to, and along tidal waterways and their shores;
- Provide opportunities for public access to tidal waterways and their shores through new development;
- Provide public access that does not create conditions that may be reasonably expected to endanger public health and safety, damage the environment, or create significant homeland security vulnerability.

Mantoloking Borough’s Municipal Public Access Plan embraces and reflects these goals and will help preserve, protect, and enhance the public’s ability to access the Public Trust lands which surround the Borough.

I. Municipal Public Access Vision

A. Overview of Municipality

1. Municipal Description

The Borough of Mantoloking is located on the Atlantic Ocean Coastline in Ocean County, New Jersey, comprised of approximately 0.40 square miles of barrier beach that lie within the flood plains of the Atlantic Ocean and Barnegat Bay. The Borough is bounded on the north by the Borough of Bay Head, on the south by the Township of Brick, on the west by the waters of Barnegat Bay and on the east by the Atlantic Ocean. The geography of Mantoloking's barrier beach type setting consists of tidal waters forming on its western and eastern borders, with approximately 2.2 miles of oceanfront and approximately 3.0 miles of bay shoreline.

Mantoloking has long been identified as a summer home community, with most of the Borough consisting of single family detached homes that are used primarily as vacation residence although recent demographics indicate an increase in all year round residency. The Borough is primarily zoned as residential as only three (3) lots are classified as business and ten (10) lots classified as public use. The homes are single family and typically of standard wood frame construction with various architectural styles. However, with the adoption of the prevailing Land Use Ordinance, dimensions for rebuilt and constructed homes are regulated as to preserve the nature of the Borough. The Borough is essentially fully developed with further development limited to lot in-fill, minor subdivisions, and reconstruction which is governed by the above mention Ordinance. The Borough is primarily composed of more empty-nester residents, couples who no longer have children living at home, as the number of senior citizens and families with school aged children have dropped in recent years.

Despite its development status, Mantoloking has preserved a large portion of the natural vegetation-covered dunes protecting its beaches. Visitors follow paths over the dunes, emerging at the bathing area. The dune system is a critically important and integral natural resource of the community that provides: (a) a protective buffer dissipating coastal storm energy; (b) a bank of sand to replenish the beach system during coastal storm events; and (c) an extensive and diverse habitat for local plants and wildlife adapted to the dune ecosystems. Accordingly, the stewardship of the dunes is not only recognized as a model for community protection and coastal dune enhancement, but also is critical to the protection of the Borough.

Mantoloking's economy is highly dependent upon resistance to flooding. Accordingly, efforts to minimize flooding are critical to the financial success of the Borough. The Borough's tax base depends upon home and property, and local flooding and flood damage can severely diminish property values. In an effort to protect and preserve the Borough's upland, the Borough has spent a significant amount on coastal protection to alleviate flooding from both its Atlantic and Bayside shorelines. With each planned improvement the Borough stresses conformance to the American Disabilities Act (A.D.A.) requirements and has developed a firm

relationship with the New Jersey Department of Environmental Protection (NJDEP), United States Army Corps of Engineers (USACE), U.S. and Fish, Game and Wildlife (USFGW), New Jersey Endangered and Nongame Species Program (ENSP) and FEMA which has been invaluable in addressing hazard mitigation and enhancement projects. As part of the Borough's annual self-evaluation Mantoloking sets goals to enhance and implement conformance to the National Flood Insurance Plan (NFIP), Community Rating System (CRS) repetitive loss reduction plan and has had marked success in meeting its goals and reducing damages to municipal and residential property with anticipated future reductions to local flood insurance rates.

The Borough is a typical barrier beach community bounded on the east by the Atlantic Ocean and on the west by Barnegat Bay. As a barrier beach the Borough acts as a haven for rare, protected and endangered species. Specifically the Borough's land mass acts as a barrier to protect the back bay area for rare birds and other marine creatures including various fish and shellfish. The Borough's shore attracted recreational activities are essentially water-oriented consisting of bathing, boating, fishing, surfing, shelling and other related activities. Further detail of the activities specific to the Borough are discussed in further detail herewith.

2. Public Access Description

Public Access in Mantoloking Borough is provided by the municipality and consists of a variety access points and facilities including beach access ramps, beach walkways, bathroom facilities, kayak and self-propelled small watercraft landing and launch area, public walkways to bayside and oceanside public access areas, etc. Mantoloking Borough protects and ensures public access through dedicated right-of-ways and easements, ordinances, beach badges with support fees, community clean-ups, and yearly inspections. The overall goal of this MPAP is to establish Mantoloking Borough's plan to maintain and enhance all existing public access locations to and along tidal waterways and their shores.

3. Mantoloking Borough Municipal Public Access Plan Map

The MPAP map shows all the public access ways, parking areas, public bathroom facilities, tidal waterways within and abutting the municipality and all lands held by the municipality. The map may be found in Appendix 3.

B. Municipal Public Access Goals and Objectives

The current Borough Master Plan, as originally adopted in 1979 and reexamined 1988, 1995, 2001 and 2007 does not specifically mention Public Access as defined per NJDEP regulations. However, through the adoption of the Municipal Public Access Plan, as provided herewith, as part of the Land Use Element of the Plan, public access shall be addressed.

The elements of the Plan will be to provide enhanced public access yet preserve and conserve the existing character of the Borough by: protecting public and private open space areas; protecting environmentally sensitive areas; and maintaining a coastal lifestyle through bathing, boating and water-based activities.

In addition to those goals outlined within the Master Plan, by the adoption of the MPAP and the three State required goals below, Mantoloking Borough establishes the following as goals specifically for public access:

- All existing public access shall be maintained to the maximum extent practicable;
- Maintain safe and adequate access locations for fishing;
- Provide clear informative signage for access locations;
- Maintain public parking along Borough streets where presently allowed to the maximum extent practicable;
- Improve existing public access ways to meet ADA compliance to the maximum extent practicable;
- Provide safe and adequate access so that needs of residents and visitors are met;
- Maintain existing public bathroom cleanliness and accessibility, seven (7) days per week during the summer season and weekdays during the non-summer season.

II. Existing Public Access

A. Public Access Locations

The Mantoloking Borough Municipal Public Access Plan Map identifies an inventory of all public access locations within Mantoloking Borough. Whether they are currently: Restricted; Utilized; or Un-utilized along with their attributes of improvements, and activities which are provided in Table 1 with detailed information for each location. Both may be found in Appendix 3.

Utilized - meaning this location is used by the public and provides official or unofficial public access.

Restricted - meaning the location poses known or likely public health and safety or environmental damage concerns.

Un-utilized - meaning this location contains no improvements and receives little or no use by the public.

B. Improved Public Access Locations

Mantoloking Borough Municipal Public Access Plan Map provides an inventory of the preferred, existing and proposed, public access locations that provide access to Public Trust lands and waters. See Table 1 which provides detailed information on each location and which may be found in Appendix 3.

The Map and Table identifies:

- Existing public access improvements;
- Identifies improvements to be redeveloped and keep compliant with Americans with Disabilities Act (ADA) requirements.

C. Limitations to Public Access

The following limitations to public access in Mantoloking Borough currently exist:

- Lack of significant public lands adjacent to tidal waterways;
- Lack of public lands for parking lots;
- Lack of public land for additional public restrooms;
- State Highway traffic and dedicated bike lane creates unsafe parking conditions on the west side of Route 35.

1. Temporary Restrictions

Since Super Storm Sandy, the Borough has invested considerable effort reconstructing its access facilities to pre-storm conditions. The Borough is also awaiting the commencement of the USACE Manasquan Inlet to Barnegat Inlet shore protection project which calls for construction of a beachfill with a dune from Point Pleasant Beach to the border of Island Beach State Park, NJ. This project will increase the size of the Borough's beach and dune system while providing upgrades to the existing access locations with such amenities of improved ADA and vehicular access for safety, emergency response, and home security. The facilities at various access points damaged by Super Storm Sandy are subject to future improvements that will be implemented by the USACE project itself. Accordingly, the Borough determined not to expend Borough funds to repair the damaged ADA facilities since they would be modified further in the near future as part of the USACE Project. Accordingly, ADA access to the Atlantic beach is presently not provided awaiting the USACE project construction.

The Borough maintains its beach and dune system through their existing NJDEP Beach and Dune Maintenance Permit. As these maintenance activities are being completed, those sections of the beach are off limits for use.

A beach badge is required to enter the beach from June 15th through September 7th from 8:00 AM to 6:00 PM. Beach badges are available for purchase at the badge trailer located on Downer Avenue next to the Firehouse starting June 15th. The hours for the sale of badges are daily between the hours of 10:00 AM and 5:00 PM.

2. Permanent Restrictions

In previous years, public restroom facilities were provided at Borough Hall and usage was subject to normal business operating hours or when badges were being sold. As a result of Super Storm Sandy, this facility has been demolished and is scheduled for reconstruction in 2017; subject to variances in the planned construction schedule. Since this facility is not available, restrooms will be provided via a portable facility at Downer Avenue that will be available daily between the hours of 10:00 AM to 5:00 PM.

Of the access points within the Borough, none create conditions that endanger public health and safety or create significant vulnerability to homeland security. Some have restrictions based upon environmentally sensitive issues but are monitored and regulated accordingly.

III. Community Needs Assessment

Mantoloking Borough has performed a community needs assessment. The present access plan meets the needs of the Borough at this time and foreseeable future but will be subject to improvement and or modification as found necessary or desired as identified in this plan. This shall be completed by collaboration with the various Borough agencies, boards and committees with assistance of the NJDEP.

IV. Implementation Plan

Mantoloking Borough has created an Implementation Plan composed of Priorities, Preservation of Public Access Locations, Signage, Proposed Access Improvements and Facilities, and Municipal Tools for Implementation as described in the following section:

A. Priorities

Mantoloking Borough developed the following priorities:

- Maintain Existing Public Access, inclusive of modifications to be completed under the proposed USACE project;
- Planned Enhancement to Public Access Locations and/or Facilities
 - Increase reliability of ADA access to bay side access locations;
- Annual inspection and maintenance of access locations;
- The creation of a Municipal Public Access Fund for allocation under Municipal budget and independently from private donations to the fund.

B. Preservation of Public Access Locations

Mantoloking Borough developed the following preservation and conservation measures:

Mantoloking Borough protects and ensures public access through dedicated right-of-ways, easement areas and ordinances. All public oceanfront access pathways are preserved as open space. Through the adoption of this Plan, measures are implemented to permanently protect the public access ways identified in the Plan.

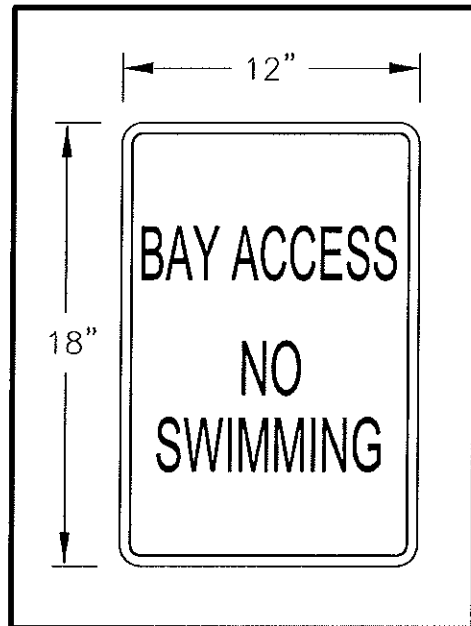
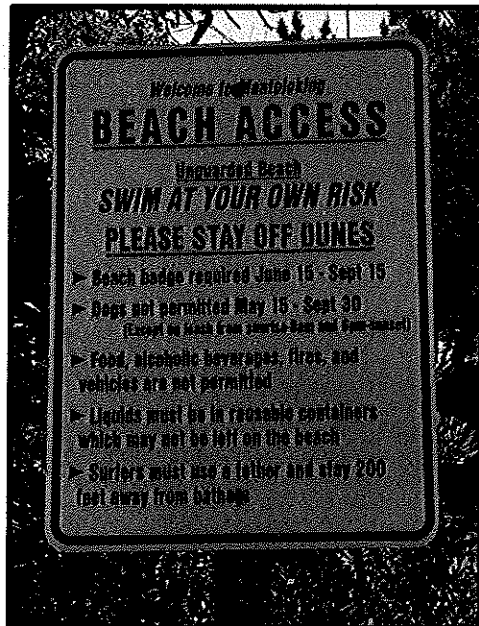
C. Signage

Mantoloking Borough has provided the following signage:

Below are the signs that are represented at the beach access locations throughout the Borough.



As it is required that public access to tidal waterways and their shores shall be clearly marked, Department approved public access signs will be installed at each public access way. Upon approval, signage will be provided at all ocean and bay access locations as indicated below.



D. Proposed Access Improvements and Facilities

As mentioned previously, the Borough is awaiting the commencement of the USACE Manasquan Inlet to Barnegat Inlet shore protection project. The Manasquan Inlet to Barnegat Inlet project plan calls for construction of a beachfill and dune from Point Pleasant Beach to the border of Island Beach State Park, NJ. This project will increase the size of the Borough's beach while providing upgrades to the existing access locations with such amenities as improved ADA and vehicular access.

Mantoloking Borough has proposed the following access improvements and facilities:

- Provide amenities to the existing access ways pedestrian walking surface, inclusive of boardwalks or mobi-matting on top of the beach access path walking surfaces, signage on beach side of walkways and benches at bayside access points;
- Improvements to Access Point A-25 to support self-propelled small non-motorized watercrafts;
- Various street ends on the bayside do not have any improvements and the access is visual only with no accommodations. The municipality may propose to provide accommodations to these locations to protect bayside street end users such as the installation of benches, decorative protective guiderail, surface enhancements and ADA depressed curbing and landscaping along with maintenance or improvements to existing bulkheads or revetments.
- Production and installation of access location signage as referenced in Section C - Signage;
- Installation of interactive pedestrian crosswalk signals for Route 35 public access;
- Purchase of beach wheelchairs and protective enclosures to house same;
- Installation of safety gates at access locations that intersect with roadways; preventing kids from inadvertently running into traffic
- Pet waste disposal stations.

E. Municipal Tools for Implementation

Mantoloking Borough has the following tools for the maintenance, enhancement and development of public access locations:

1. Maintenance Tools

Maintenance of the access locations will be conducted by the Borough's Public Work Department. Maintenance of the beach and dune system will be completed by the Borough's Public Works Department under their existing General Coastal Permit and will continue to maintain same upon completion of the USACE beachfill project.

2. Enhancement Tools

The enhancements mentioned within this Plan, when adopted, will be implemented by the Borough.

3. Development Tools

The proposed improvements mentioned within this plan, or included in future plan revisions, when adopted, shall be considered by the Borough.

F. Municipal Public Access Enhancement Fund

Mantoloking Borough has created a Municipal Public Access Enhancement Fund as follows:

Any development within the Borough's boundary that requires a Coastal Area Facility Review Act (CAFRA) or Waterfront Development permit, and would also be required by the NJDEP to provide onsite public access or contribute to enhancement of public access as a condition of that permit, can contribute to the Borough's Public Access Enhancement Fund in lieu of access, if approved by the NJDEP as subsequently confirmed by the Borough. The donations collected in the Fund will be used towards the proposed enhancements to the public access locations identified in this Plan as well as any soft costs (engineering, bid, permitting, etc.) and construction costs associated with same.

G. Implementation

Mantoloking Borough has created an Implementation Schedule as follows:

1. Existing Maintenance

Maintenance schedules and routines will be determined by the Department of Public Works and will be subject to modification based upon need. Funding in support of the maintenance of existing access is determined annually in the Public works Budget. Such activity will be supported by the adoption of the MPAP and existing Borough Ordinances.

2. Enhancements to Existing Locations

Enhancement activities will be conducted on an as needed basis as determined by the various Committees and Boards enacted by the Borough in conjunction with the Municipal Public Access Plan Committee. Funding for the projects indicated in this report will be achieved through securing state and federal grants as well as the Access Fund mentioned above. Application for grants will remain a tool for implementation of improvements and enhancements. Coordinated planning with other Borough planning elements, specifically the Master Plan, Flood Mitigation Plan, Beach Management and other related plans, and CRS program shall remain an integral part of this process.

3. Proposed Locations and Facilities

The Borough is fortunate to have a significant number of readily available public access points to the Atlantic Ocean and Barnegat Bay for use by its residents and the general public. As the Borough acknowledges the continued maintenance and updating/enhancement of its existing access locations is a necessity, proposed new locations and facilities are not its primary objective.

H. Army Corps of Engineers Requirements for Shore Protection Projects

Mantoloking Borough has met the USACE Requirements as follows:

Due to requirements of the Army Corp of Engineers for public access and parking to Mantoloking's beach and waterways in conjunction with the upcoming shoreline protection project, the Borough will provide parking along the Route 35 Northbound shoulder between Lyman Street and Herbert Street during daylight hours. The Borough of Mantoloking will continue to work with the New Jersey Department of Transportation to provide accommodations in this section.

I. Additional Steps (NA)

V. Relationship to the Other Regional and State Plans (OPTIONAL)

Mantoloking Borough's MPAP has been reviewed for consistency and has the following relationship to other Regional and State Plans: N/A

VI. Resolution of Incorporation

Mantoloking Borough has approved a resolution for the incorporation of the MPAP. See Appendix 2 for the *draft* resolution.

APPENDIX 1
Municipal Public Access Plans
Required Sections per NJAC 8.11 (e)

1. (e) 1 Statement describing overall **goal of the MPAP** and the **administrative mechanisms** (for example, conservation restrictions, easements, ordinances) that either are already in place, or that shall be put in place to ensure that the municipality will meet public access goals
2. (e) 2 Statement of **Consistency with...Master Plan**
3. (e) 3 Public access **needs assessment** that evaluates:
 - existing access locations and capacities
 - practical limitations (esp. parking and bathrooms)
 - alternatives to address any limitations determined to exist
 - need for additional locations
4. (e) 4 **Digital Map and Inventory** identifying...:
 - tidal waterways within municipality and adjacent lands held by municipality
 - existing and proposed public access ways
 - proposed public access facilities
 - identified facilities compliant with ADA
5. (e) 5 **Implementation strategy**
 - forms of proposed public access responsive to needs assessment (i)
 - comprehensive list of specific public access projects and initiatives with implementation schedule (ii)
 - proposed tools to implement the plan, including (iii)
 - i. adoption or amendment of muni ordinances
 - ii. uses of monetary compensation (Public Access Fund), if any
 - proposed modifications to existing plans, ordinances & programs to implement MPAP (iv)
 - proposed compliance with ACOE requirements for shore protection projects [see 8.11(r)] (v)
 - cost of implementing, constructing and maintaining the access facilities proposed in the plan and specifies how this cost will be funded (vi)
 - implementation schedule (vii)
 - ordinances in place/to be adopted re signage requirements (viii)
 - measures to permanently protect public access per MPAP (ix)
 - examples/models of easements/restrictions for permanent protections (x)
 - draft resolution incorporating DEP-approved MPAP into a MP element (xi)

APPENDIX 2
Model Resolution for Incorporating MPAP into Master Plan

Resolution # _____

Title: A RESOLUTION APPROVING THE MUNICIPAL PUBLIC ACCESS PLAN

WHEREAS, the *Mantoloking Borough* Municipal Public Access Plan was submitted to the Borough Council and reviewed at the regular meeting of {date}, and

WHEREAS, the governing body has approved the plan as submitted,

NOW, THEREFORE, BE IT RESOLVED by the {municipality governing body} of *Mantoloking Borough*, the "*Mantoloking Borough* Municipal Public Access Plan," a copy of which is attached, is hereby approved.

FURTHER RESOLVED a copy of the plan shall be sent to the New Jersey Department of Environmental Protection for review and approval in accordance with N.J.A.C.7.7 and 7.7E.

I hereby certify the foregoing to be a resolution adopted by the {governing body} at a meeting held on {date}.

Municipal Clerk

APPENDIX 3
Maps and Table

Map - Mantoloking Borough Municipal Public Access Plan Map

Table 1 – Mantoloking Borough Public Access Location Amenities

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