

**MINUTES
WORK SESSION**

The Work Session Meeting of the Mayor and Council was held in the Council Chambers and called to order at 7:37pm. Adequate notification was published in the official newspaper of the Borough of Montvale. Roll call was taken.

OPEN PUBLIC MEETING STATEMENT

Adequate notice of this meeting was provided to The Bergen Record and The Ridgewood News, informing the public of the time and place according to the provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

ROLL CALL:

Councilmember Arendacs

Councilmember Curry

Councilmember Gloegler

Councilmember Koelling - absent

Councilmember Lane

Councilmember Russo-Vogelsang

Also present: Borough Attorney, Joe Voytus; Borough Engineer, Andrew Hipolit; Administrator/Clerk, Maureen Iarossi-Alwan and Deputy Clerk, Fran Scordo

ORDINANCES:

PUBLIC HEARING ORDINANCE NO. 2019-1472 AN ORDINANCE OF THE BOROUGH OF MONTVALE COUNTY OF BERGEN, STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 44, "FLOOD DAMAGE PREVENTION," OF THE BOROUGH CODE TO COMPLY WITH THE REQUIREMENTS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY

BE IT ORDAINED by the Mayor and Council of the Borough of Montvale as follows:

Section 1. Chapter 44, "Flood Damage Prevention," of the Borough Code is hereby repealed in its entirety and replaced as follows:

CHAPTER 44 – FLOOD DAMAGE PREVENTION**Article I****Authorization, Findings, Purpose and Objectives**

- §44-1** Statutory authorization.
- §44-2** Findings of fact.
- §44-3** Statement of purpose.
- §44-4** Methods of reducing flood losses.

Article II**Definitions**

- §44-5** Definitions.

Article III**General Provisions**

- §44-6** Lands to which this Chapter applies.
- §44-7** Basis for establishing the areas of Special Flood Hazard.
- §44-8** Penalties for non-compliance.
- §44-9** Abrogation and greater restrictions.

§44-10 Interpretation.

§44-11 Warning and disclaimer of liability.

**Article IV
Administration**

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§44-13 Designation of the local administrator.

§44-14 Duties and responsibilities of the administrator.

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**Article I
Authorization, Findings, Purpose and Objectives**

§44-1 Statutory authorization.

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. In furtherance thereof, the Mayor and Council of the Borough of Montvale of Bergen County, New Jersey have established the standards and procedures set forth in this Chapter.

§44-2 Findings of fact.

- A. The flood hazard areas of the Borough of Montvale are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§44-3 Statement of purpose.

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§44-4 Methods of reducing flood losses.

In order to accomplish its purposes, this Chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Article II Definitions

§44-5 Definitions.

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

AH Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

AO Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

Appeal — A request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding — A designated AO or AH zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

Base Flood — A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) — The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Basement — Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Erosion — The process of gradual wearing away of land masses.

Existing Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Floodplain Management Regulations — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

Freeboard — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

Historic Structure — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior;
- or

- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
1. By an approved State program as determined by the Secretary of the Interior;
or
 2. Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction — (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this Chapter.

Violation — The failure of a structure or other development to be fully compliant with this Chapter. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Article III

General Provisions

§44-6 Lands to which this Chapter applies.

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Montvale, Bergen County, New Jersey.

§44-7 Basis for establishing the areas of Special Flood Hazard.

The areas of special flood hazard for the Borough of Montvale, Community No. 340052, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- A. A scientific and engineering report "Flood Insurance Study, Bergen County, New Jersey (All Jurisdictions)" dated August 28, 2019.
- B. "Flood Insurance Rate Map for Bergen County, New Jersey (All Jurisdictions)" as shown on Index and panels 34003C0079J, 34003C0083H, 34003C0087J, 34003C0091H, and 34003C0092H, whose effective date is August 28, 2019.

The above documents are hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and maps are on file at the Borough of Montvale Municipal Building, 12 Mercedes Drive, Montvale, New Jersey.

§44-8 Penalties for non-compliance.

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be subject to the penalties set forth in Chapter 1, Article II, "General Penalty" for each violation, and in

addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Montvale from taking such other lawful action as is necessary to prevent or remedy any violation.

§44-9 Abrogation and greater restrictions.

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§44-10 Interpretation.

In the interpretation and application of this Chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

§44-11 Warning and disclaimer of liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This Chapter shall not create liability on the part of the Borough of Montvale, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

**Article IV
Administration**

§44-12 Establishment of development permit.

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 44-7. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed.
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 44-17B; and,
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§44-13 Designation of the local administrator.

The Construction Official is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.

§44-14 Duties and responsibilities of the administrator.

Duties of the Construction Official shall include, but not be limited to:

A. Permit review.

1. Review all development permits to determine that the permit requirements of this Chapter have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of section **44-18A** are met.

B. Use of other base flood and floodway data.

When base flood elevation and floodway data has not been provided in accordance with section **44-7**, Basis for Establishing the areas of Special Flood Hazard, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections **44-17A, Specific Standards, Residential Construction** and **44-17B, Specific Standards, Nonresidential Construction**.

C. Information to be obtained and maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.2. For all new or substantially improved floodproofed structures:
 - i. verify and record the actual elevation (in relation to mean sea level); and
 - ii. maintain the floodproofing certifications required in section **44-12C**.
3. Maintain for public inspection all records pertaining to the provisions of this Chapter.

D. Alteration of watercourses.

1. Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

E. Substantial damage review.

1. After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
2. Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
3. Ensure substantial improvements meet the requirements of sections **44-17A, Specific Standards, Residential Construction**, **44-17B, Specific Standards, Nonresidential Construction**, and **44-17C, Specific Standards, Manufactured Homes**.

F. Interpretation of FIRM boundaries.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of

the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section **44-15**.

§44-15 Variance procedure.

A. Appeal board.

1. The Planning Board as established by the Governing Body shall hear and decide appeals and requests for variances from the requirements of this Chapter.
2. The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this Chapter.
3. Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided in the New Jersey Revised Statutes.
4. In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:
 - i. the danger that materials may be swept onto other lands to the injury of others;
 - ii. the danger to life and property due to flooding or erosion damage;
 - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. the importance of the services provided by the proposed facility to the community;
 - v. the necessity to the facility of a waterfront location, where applicable;
 - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. the compatibility of the proposed use with existing and anticipated development;
 - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Upon consideration of the factors of section **44-15A(4)** and the purposes of this Chapter, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
6. The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous

- to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in section **44-15A(4)** have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 5. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section **44-15A(4)**, or conflict with existing local laws or ordinances.
 6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Article V

Provisions for Flood Hazard Reduction

§44-16 General Standards.

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
4. For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision proposals.

1. All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
2. All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

E. Enclosure openings.

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

§44-17 Specific standards.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section **44-7**, Basis for Establishing the areas of Special Flood Hazard, or in section **44-14B**, Use of Other Base Flood and Floodway Data, the following standards are required:

A. Residential construction.

1. New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air- conditioning and other service equipment) and sanitary facilities, elevated at or above the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1,;

2. Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

B. Nonresidential construction.

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:

1. Elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1,; and
2. Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or
3. Be floodproofed so that below the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, the structure is watertight with walls substantially impermeable to the passage of water;
4. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
5. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section **44-14C(2)(ii)**.

C. Manufactured homes.

1. Manufactured homes shall be anchored in accordance with section **44-16A(2)**.
2. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - i. Be consistent with the need to minimize flood damage,
 - ii. Be constructed to minimize flood damage,
 - iii. Have adequate drainage provided to reduce exposure to flood damage,
 - iv. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1.
 - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

§44-18 Floodways.

Located within areas of special flood hazard established in section **44-7** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If section **44-18A** is satisfied, all new construction and substantial improvements must comply with this **Article V**.
- C. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

Section 2. Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 4. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 5. Effective Date.

This ordinance shall become effective upon adoption and publication as required by law and shall remain in full force and effect until modified, amended or rescinded by the Borough of Montvale, Bergen County, New Jersey.

A motion Introduced for second reading Ordinance No 2019-1472 by Councilmember Russo-Vogelsang; seconded by Councilmember Lane; Clerk read by title only.

Motion to open meeting to public by Councilmember Lane; seconded by Councilmember Curry
- All ayes

NO PUBLIC COMMENT

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes.

Motion to adopt on Second and Final Reading in Ridgewood News by Councilmember Lane; seconded by Councilmember Curry - All ayes on a roll call vote –

MINUTES:May 28, 2019

A motion to accept the minutes by Councilmember Lane; seconded by Councilmember Curry
- all ayes with the exception of Councilmember Arendacs abstaining.

June 11, 2019

A motion to accept the minutes by Councilmember Curry; seconded by Councilmember Lane
- all ayes with the exception of Councilmember Russo-Vogelsang abstaining.

MINUTES CLOSED/EXECUTIVE SESSION:June 11, 2019

A motion to accept minutes by Councilmember Curry; seconded by Councilmember Lane
– all ayes with the exception of Councilmember Russo-Vogelsang abstaining

RESOLUTIONS: (CONSENT AGENDA*)

All items listed on a consent agenda are considered to be routine and non-controversial by the Borough Council and will be approved by a motion, seconded and a roll call vote. There will be no separate discussion on these items unless a Council member(s) so request it, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

136-2019 A Resolution of the Borough of Montvale Awarding a Contract to Media Consultants, LLC, as an Extraordinary Unspecifiable Service for MontVale Studio Management, Content Production and Related Services

WHEREAS, the Borough of Montvale is desirous of engaging the services of a professional and reputable company to manage, create content and provide related services concerning the MontVale Studio in order to better serve Borough officials and residents; and

WHEREAS, such services are exempt from public bidding requirements pursuant to *N.J.S.A. 40A:11-5(a)(ii)* and *N.J.A.C. 5:34-2.1* as “extraordinary unspecifiable services”; and

WHEREAS, the Borough has received a renewal proposal to provide such services from Media Consultants, LLC (the “MC Proposal”) it has been determined that Media Consultants demonstrates the expertise and proven reputation in the specialty of television studio management, content production and related services which is essential to the Montale Cable Access Studio; and

WHEREAS, the Council is therefore desirous of awarding a contract to Media Consultants, LLC to perform the above-referenced services for a period of one (1) year, for the prices and on the terms set forth in the Media Consultants Proposal; and

WHEREAS, because the value of this contract exceeds the Borough’s applicable pay-to-play threshold, it shall be awarded pursuant to the “alternative” provisions of *N.J.S.A. 19:44A-20.4*, et seq., and Media Consultants has provided a Business Entity Disclosure Certification and all other appropriate documentation pertaining to same.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Montvale that a contract is hereby awarded to Media Consultants, LLC for of television studio management, consent production and related services, for the prices and on the terms set forth in the Proposal submitted by Media Consultants, LLC entitled “Borough of MontVale Studio Management Proposal” for the Borough of Montvale which is hereto attached to the original of his resolution.

BE IT FURTHER RESOLVED that the pricing for this contract shall be for a total of \$41,096.00 as set forth in the MC Proposal and shall be for a term of one (1) year.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk, and all other appropriate officials, shall be and are hereby authorized to execute all contract documents necessary to effectuate the purposes of this resolution, subject to approval as to form by the Borough Attorney.

BE IT FURTHER RESOLVED that pursuant to *N.J.S.A. 40A:11-5(1)(a)(ii)*, a brief notice stating the nature, duration, service and amount of this contract shall be printed once in the official newspaper of Borough of Montvale, and said notice shall also advise the public that a copy of the final contract shall be on file and available for public inspection at the office of the Borough Clerk.

137-2019 A Resolution Certifying a Lien against Property Known as 121 North Kinderkamack Road For Costs Incurred by the Borough of Montvale In Accordance With the Montvale Property Maintenance Code

WHEREAS, in accordance with Chapter 86 of the Montvale Borough Code, entitled "Property Maintenance," notice of numerous property maintenance violations was sent to the owner of property/bank foreclosure known as 119 -121 North Kinderkamack Road, designated as Block 703/Lot 4 on the Montvale Tax Map, and

WHEREAS, the owner of said property or the bank foreclosure division did not comply with these notices and did not abate the identified violations; and

WHEREAS, the Montvale Construction Official is required to take the steps in order for the necessary work to be performed and has certified the cost of same to the Governing Body with the submission of an invoice from Raymond Brothers, Landscaping, Inc. 55 Prospect Place, Hillsdale, NJ 07642 dated August 16, 2018, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the cost to abate the property maintenance violations at 121 North Kinderkamack Road will be \$1,250.00; and

WHEREAS, it is the desire of this Governing Body, in accordance with Borough Code § 86-10(D)(8), to approve said costs and to authorize the imposition of a lien against the property.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey, that a lien for all the bills submitted by the vendor is hereby certified as against the property known as 121 Kinderkamack Road in the Borough of Montvale; and

BE IT FURTHER RESOLVED that said lien shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced in the same manner as are taxes, in accordance with Chapter 86 of the Borough Code and applicable law; and

BE IT FURTHER RESOLVED that the Borough Clerk shall forward a certified copy of this resolution to the owner(s) of the subject property by certified mail; and

BE IT FURTHER RESOLVED that the Tax Collector shall be responsible for collection of the amounts herein certified.

138-2019 A Resolution Certifying a Lien against Property Known as 45 Longridge Road For Costs Incurred by the Borough of Montvale In Accordance With the Montvale Property Maintenance Code

WHEREAS, in accordance with Chapter 86 of the Montvale Borough Code, entitled "Property Maintenance," notice of numerous property maintenance violations was sent to the owner of property/bank foreclosure known as 45 Longridge Road, designated as Block 1802/Lot 15 on the Montvale Tax Map, and

WHEREAS, the owner of said property or the bank foreclosure division did not comply with these notices and did not abate the identified violations; and

WHEREAS, the Montvale Construction Official is required to take the steps in order for the necessary work to be performed and has certified the cost of same to the Governing Body with the submission of an invoice from Raymond Brothers, Landscaping, Inc. 55 Prospect Place,

Hillsdale, NJ 07642 dated August 16, 2018, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the cost to abate the property maintenance violations at 45 Longridge Road be \$2,300.00; and

WHEREAS, it is the desire of this Governing Body, in accordance with Borough Code § 86-10(D)(8), to approve said costs and to authorize the imposition of a lien against the property.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey, that a lien for all the bills submitted by the vendor is hereby certified as against the property known as 45 Long Ridge Road in the Borough of Montvale; and

BE IT FURTHER RESOLVED that said lien shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced in the same manner as are taxes, in accordance with Chapter 86 of the Borough Code and applicable law; and

BE IT FURTHER RESOLVED that the Borough Clerk shall forward a certified copy of this resolution to the owner(s) of the subject property by certified mail; and

BE IT FURTHER RESOLVED that the Tax Collector shall be responsible for collection of the amounts herein certified.

139-2019 Award Professional Service Contract /Engineering Services/Construction Observation Services/LaTrenta Field Improvements/Maser Consulting

WHEREAS, the Borough of Montvale has deemed it necessary to engage the professional services of an Engineer to provide professional services to design, construction observation services and bidding for the turf field projects at LaTrenta Field; and

WHEREAS, section N.J.S.A. 40A:11-5 of the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.) exempts such professional services from competitive bidding; and

WHEREAS, Maser Consulting, 400 Valley Road, Suite 304, Mt. Arlington, NJ 07856 has submitted a proposal dated June 10, 2019 to provide the engineering services for services which are detailed and attached to the original of this resolution, and

WHEREAS, the Certified Municipal Finance Officer has certified funds are available certification hereto attached to the original of this resolution.

NOW, THEREFORE BE IT RESOLVED by the Borough of Montvale as follows:

- 1) That the proposal for the scope of engineering services is attached to this resolution which is made part of this resolution shall be awarded to Maser Consulting.
- 2) That the following be provided: Design Specification/ Bidding Services/Construction Administration
 - 1) Design, Specification & Bidding \$40,000.00
 - 2) Construction Administration \$35,000.00
- 3) The cost not to exceed shall be \$75,000.00. The Engineer shall be required to submit itemized bills and payment shall be made based upon services rendered. The rates for this work are in accordance with the hourly contractual agreement with the Borough of Montvale.

BE IT FURTHER RESOLVED, that a copy of this resolution be published an official newspaper of the Borough of Montvale, be on file, available for public inspection, in the office of the Municipal Clerk, Municipal Complex, 12 Mercedes Drive, Montvale, NJ 07645.

140-2019 Renewal Liquor License Establishments 2019/2020

BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, in the County of Bergen, State of New Jersey, that renewal Plenary Retail Consumption Licenses, Plenary Retail Distribution Licenses and Club License be granted to the following, said Licenses to be effective July 1, 2019 and to terminate June 30, 2020.

BE IT RESOLVED, that the State of New Jersey, Department of Treasury, Division of Taxation has provided Tax Clearance Certificates for each establishment for this renewal period.

0236-33-004-008 Paluter, Inc., Aldo & Gianni Restaurant (This Plenary Retail Consumption License is currently approved to be a "Pocket License")

0236-33-005-008 The Waterfall, Inc., t/a Hearth & Tap for the premises at 125 Kinderkamack Road, Montvale, New Jersey.

0236-33-006-003 Montvale Recreation, Inc., t/a Montvale Recreation Inc. for premises at 14 West Grand Avenue, Montvale, New Jersey.

0236-33-007-004 TPC, Inc., t/a Davey's Locker, for premises at 5 Park Street, Montvale, New Jersey.

0236-31-009-001 Montvale Engine Co. #1, Inc., t/a Montvale Fire Department, for premises at 35 West Grand Avenue, Montvale, New Jersey.

0236-44-001-006 Mo & Sy Corp. t/a Montvale Wine & Spirits, Inc. for premises at 18 South Kinderkamack Road, Montvale, New Jersey

0236-44-002-011 BPO Wine Corporation, t/a Wegmans, 100 Farm View, Montvale, New Jersey

0236-36-012-003 South City Prime Montvale, LLC t/a Fire & Oak for premises at 100 Chestnut Ridge Road, Montvale, New Jersey

BE IT RESOLVED, that the Municipal Clerk be and is hereby directed to issue said licenses.

142-2019 Authorize Release of Escrow/3101/Lot 1/Chestnut Ridge Shopping Center

WHEREAS, UB Chestnut LLC, Chestnut Ridge Shopping Center, Chestnut Ridge Road, Montvale, NJ 07645 has requested release in escrow; and

WHEREAS, the Borough Engineer in an email dated April 30, 2019 attached to the original of this resolution takes no exception to the release and other Borough professionals also take no exception to the release of escrow; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale the amount of \$6,844.23 is hereby released to UB Chestnut, LLC, 321 Railroad Avenue, Greenwich, CT 06830; and

FURTHER RESOLVED, the Treasurer shall receive a copy of this resolution for processing.

143-2019 Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the VARIOUS STREETS PROJECT.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Montvale formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as **MA-2020-VARIOUS STREETS-00301** to the New Jersey Department of Transportation on behalf of the Borough of Montvale.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Montvale and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Introduced by Councilmember Lane; seconded by Councilmember Curry - all ayes

BILLS: Municipal Clerk read the Bill Report

Motion to pay bills by Councilmember Lane; seconded by Councilmember Russo-Vogelsang

- all ayes

ENGINEER'S REPORT:

Andrew Hipolit
Report/Update

Bids will be received next week for the 2019 road program, with work beginning sometime in August or early September; Pickle ball courts are now open; PSEG will be adding a new gas main on Kinderkamack Road and Grand Ave – access to those roads will be limited; Suez will be replacing lead services on certain streets, the website will have a list of those roads;

ATTORNEY REPORT:

Joseph Voytus, Esq.
Report/Update
No report

UNFINISHED BUSINESS

None

NEW BUSINESS:

Lisa Dent, Recreation Director, mentioned that this year the school nurse will be shared with summer camp and the school summer programs at a cost of \$1,500; which will be a savings.

COMMUNICATION CORRESPONDENCE:

None

MEETING OPEN TO THE PUBLIC:**HEARING OF CITIZENS WHO WISH TO ADDRESS THE MAYOR AND COUNCIL:**

Upon recognition by the Mayor, the person shall proceed to the floor and give his/her name and address in an audible tone of voice for the records. Unless further time is granted by the Council, he/she shall limit his/her statement to five (5) minutes. Statements shall be addressed to the Council as a body and not to any member thereof. No person, other than the person having the floor, shall be permitted to enter into any discussion, without recognition by the Mayor.

A motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry – all ayes

Erika Henao, Supervisor, National Institute for People with Disabilities of NJ

She works at the group home located on Grand Ave; wanted to bring awareness to councilmembers and the public of their services; Councilmember Curry suggested to put together a presentation and comeback to a televised meeting; Council President Gloeggler suggested an interview on TVAccess;

Carolee Adams

Due to the road closures on Kinderkamack and Grand Ave from PSEG, Ms. Adams is concerned that the local businesses will be affected; gave councilmembers an article regarding the proposed 9% rate increase from Rockland Electric; asked for clarification regarding resolution 137-2019 Media Consultants and the phrase “pay to play”, the borough attorney explained that it is a state regulation about giving reportable contributions; mentioned at last meeting, sometimes it hard to hear council’s comments and suggested wearing microphones.

Carol Loscalzo, 6 Twin Oaks Drive

June is National Pride month; Would like council to consider raising the Pride Flag, it is too late for this year and would like it for next year; after a brief discussion with councilmembers, the borough attorney, stated that a policy should be in place first; Council President Gloeggler stated that being that members of the council and the mayor were not present, she felt this needed to be discussed with the full members of the governing body at a later date;

A motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry
– all ayes

ADJOURNMENT:

Motion to adjourn by Councilmember Lane; seconded by Councilmember Curry - all ayes

The next Meeting of the Mayor and Council will be held July 9, 2019 at 7:30 p.m.

Meeting adjourned at 8:20pm

Respectfully submitted, Fran Scordo, Deputy Municipal Clerk