

**REGULAR MEETING  
MAY 16, 2017**

In compliance with Chapter 231, OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice has been given to all members of the Governing Body, the "Local Source" and the "Westfield Leader" the two newspapers designated to receive such notice. The notice is posted on the Borough Hall bulletin board.

Mayor Paul N. Mirabelli called the meeting to order at 7:32 P.M.

**INVOCATION: Councilman Mortimer** (Moment of silence for Werner Schon)  
**SALUTE TO THE FLAG**  
**ROLL CALL**

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilwoman Fech-Caccamo, Councilman Messler, Councilman Mortimer, Council President Turner, Administrator Debbie and Attorney Post. Also present Police Chief Allan Attanasio, Public Works Manager Ronald Romak and Recreation Director Frank Masella.

**APPROVAL OF MINUTES:**

Upon motion by Councilman Mortimer and a second by Councilwoman Andre, the minutes of the Regular Session Meeting held on April 18, 2017 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Turner a second by Councilwoman Andre, the minutes of the Work Session Meeting held on May 2, 2017 were approved. Roll Call: Ayes: Andre, Fech-Caccamo, Messler, Turner. Nays: 0. Abstained: Dierkes, Mortimer.

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**PROCLAMATION:** Navy Veteran William Tomko

**RESOLUTIONS:**

The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner.

**RESOLUTION 58-2017**

AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE MORRIS COUNTY COOPERATIVE  
PRICING COUNCIL TO RENEW MEMBERSHIP THEREIN FOR THE PERIOD OF  
OCTOBER 1, 2016 THROUGH SEPTEMBER 30, 2021

WHEREAS, the Morris County Cooperative Pricing Council ("MCCPC") was created in 1974 to conduct a voluntary cooperative pricing system with municipalities, boards of educations, and other public bodies located in the County of Morris and adjoining counties; and

WHEREAS, the purpose of the MCCPC is to provide substantial savings on various goods and services to its members through the cooperative public bidding process; and

WHEREAS, the Borough of Mountainside desires to enter into an Agreement with the MCCPC, which is administered by Randolph Township as Lead Agency to renew its membership in the MCCPC for the period of October 1, 2016 through September 30, 2021.

BE IT RESOLVED, by the Borough of Mountainside, County of Union, State of New Jersey as follows:

1. The Governing Body of the Borough of Mountainside hereby authorizes the execution of an Agreement with the Morris County Cooperative Pricing Council by the Township of Randolph as Lead Agency dated October 1, 2016 pursuant to N.J.S.A. 40A:11-11(5). Said Agreement is for renewal of membership in the MCCPC for a five (5) year period from October 1, 2016 through September 30, 2021.
2. The Borough of Mountainside Clerk is hereby directed to submit a copy of this adopted Resolution, along with an executed Agreement, to Randolph Township as Lead Agency of the MCCPC.
3. This Resolution shall take effect immediately upon final passage according to law.
4. All appropriate Borough of Mountainside officials are authorized and directed to perform all required acts to affect the purpose of this Resolution.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

#### **RESOLUTION 59-2017**

WHEREAS, NJSA 40A:5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2015 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of NJSA 40A:5-6 and a copy has been received by each member of the Governing Body; and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS, the Local Finance Board has promulgated a regulation requirement that the Governing Body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the Governing Body has reviewed, as a minimum, the sections of the annual audit entitled:

#### **GENERAL COMMENTS RECOMMENDATIONS**

and;

WHEREAS, the members of the Governing Body has personally reviewed as minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

#### **GENERAL COMMENTS RECOMMENDATIONS**

as evidenced by the group affidavit form of the Governing Body; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, all members of the Governing Body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the Local Governing Body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52-27BB-52 – “A local officer or member of a local Governing Body who, after a date fixed for compliance fails or refuses to obey an order of the of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than One Thousand Dollars (\$1,000) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mountainside, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Turner and seconded by Councilwoman Andre.

**RESOLUTON 60-2017**

WHEREAS, the Chief Finance Officer is required to submit a Corrective Action Plan of the 2016 Municipal Audit Report to the Governing Body;

NOW, THEREFORE, BE IT RESOLVED that the following 2016 Audit Corrective Action Plan submitted by the Chief Finance Officer be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that a certified copy of the 2016 Audit Corrective Action Plan be forwarded to the Division of Local Government Services.

2016 Audit- Corrective Action Plan  
Recommendation: None  
Corrective Action: None

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Fech-Caccamo and seconded by Councilman Turner.

**RESOLUTION 61-2017**

WHEREAS, the Recreation Director Frank Masella has requested refunds to the following participants due to a program cancellations; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue the following refunds:

<u>Recipient</u>	<u>Program</u>	<u>Amount</u>
Roseann Heirshberg 1358 Outlook Drive	Lacrosse	\$150
Carolyn Geremia 304 Partridge Run	Total Sports	\$150

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Turner and seconded by Councilman Mortimer.

### **RESOLUTION 62-2017**

WHEREAS, the Borough of Mountainside has determined that the items listed herein are property no longer needed for public use; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of surplus personal property no longer needed for public use through the use of an online auction service; and

WHEREAS, the Borough of Mountainside intends to utilize the online auction services of Municibid located at [www.Municibid.com](http://www.Municibid.com); and

WHEREAS, the sales are being conducted pursuant to the Division of Local Government Services' Local Finance Notice 2008-9; and

WHEREAS, the Borough of Mountainside desires to sell the following surplus property:

2010 FORD CROWN VICTORIA  
VIN# 2FABP7BV3AX111284  
MILEAGE: 80,670

2002 BMW 325i  
VIN# WBAET37462NG82492  
MILEAGE: 167,735

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside in the County of Union, State of New Jersey, that the Borough is hereby authorized to sell the surplus property as indicated above on an online auction website entitled [www.Municibid.com](http://www.Municibid.com); and

BE IT RESOLVED, that the terms and conditions of the agreement entered into between Municibid and the Borough of Mountainside are available at [www.Municibid.com](http://www.Municibid.com) and in the Borough Clerk's office; and

BE IT FURTHER RESOLVED, that a certified copy of the within resolution be forwarded to the Division of Local Government Services.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Andre and seconded by Councilman Mortimer.

**RESOLUTION 63-2017**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

SECTION 1

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Mountainside hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget for the year 2017 for the below amount sums of which item is now available as a revenue from:

Public & Private Revenues off-set with Appropriations:  
Senior Focus Grant - \$25,000.00

SECTION 2

BE IT FURTHER RESOLVED, that a like sum be and the same is hereby appropriated under the caption of:

Public & Private Programs Offset By Revenues Excluded from "CAPS"  
Senior Focus Grant - \$25,000.00

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

**RESOLUTION 64-2017**

WHEREAS, since 1974, the United States Congress, through the Community Development Block Grant Program supported the future welfare of the Nation and the well-being of its citizens through maintaining viable urban communities as social, economic and political entities; and

WHEREAS, said Program has been and continues to be a critical affordable housing, community and economic revitalization tool for families and communities across the nation; and

WHEREAS, the President's Fiscal Year 2017 budget proposes the total elimination of the Community Development Block Grant Program; and

WHEREAS, the broad spectrum of activities, including homeownership opportunities; elimination of slum and blight; housing rehabilitation; improvement to public facilities and infrastructure, such as roads, water and sewer systems, libraries, fire stations, and community centers; and public services, such as employment training, child care, transportation services,

services for senior citizens, the disabled and youth; business development and job creation will no longer be able to be undertaken; and

WHEREAS, such action will no longer enable cities, counties and states to meet their community development, affordable housing and economic development needs; and

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Mountainside hereby requests your help to fight to save the Community Development Block Grant Program and maintain this vital program within the U.S. Department of Housing and Urban Development at a funding level no less than formula funding in Fiscal Year 2016.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the entire New Jersey Congressional Delegation, the United States Senate Committees on Appropriations and Budget and House Committees on Appropriations and Budget.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner.

**RESOLUTION 65-2017**

WHEREAS, the Governing Body of the Borough of Mountainside desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of approximately \$3,500.00 to fund the following project:

Volunteer Fire Assistance Grant  
Grant Identifier: FS17-074

THEREFORE, the Governing Body resolves that the Fire Chief is authorized to make application for such a grant if awarded, to execute a grant agreement with the State for a grant in an amount not less than \$3,500.00 and not more than \$3,500.00, and any amendments thereto which do not increase the Grantee's obligations.

\*The Borough of Mountainside Mayor & Council authorizes and hereby agrees to match 50% of the Total Project Amount, in compliance with the match requirements of the agreement. The availability of the match for such purposes, whether cash, services, or property, is hereby certified. 50% of the match will be made up of in-kind services (if allowed by the grant program requirements and the agreement).\*

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Turner and seconded by Councilman Mortimer.

**RESOLUTION 66-2017**

Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the 2016 Highway Safety Fund Project

**2016 HIGHWAY SAFETY FUND PROJECT**

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

BE IT FURTHER RESOLVED that the Mayor, Council and Borough Clerk are hereby authorized to submit an electronic grant application identified as HSF-2016-Mountainside Borough-00044 to the New Jersey Department of Transportation on behalf of the Borough of Mountainside.

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

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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**ORDINANCES:** Second Reading (Public Hearing)

**ORDINANCE 1255-2017**  
**AN ORDINANCE ESTABLISHING REGULATIONS FOR THE USE OF CHARITABLE CLOTHING BINS**

WHEREAS, the Union County Prosecutor’s Office recently investigated the use of charitable clothing bins and determined that in several instances, the bins were placed in various municipalities for purposes of personal gain; and

WHEREAS, the Union County Prosecutor’s Office recommends that all municipalities in Union County adopt an ordinance regulating the use of charitable clothing bins to assure they are put to charitable use, and

WHEREAS, the State has enacted a clothing bin statute, N.J.S.A. 40:48-2.60 et seq., upon which this ordinance is based.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, County of Union State of New Jersey as follows:

Section 1.

Chapter IV entitled GENERAL LICENSING AND BUSINESS REGULATIONS is hereby modified with the addition of Section 4-11 entitled “CHARITABLE CLOTHING BINS” as follows:

**4-11 CHARITABLE CLOTHING BINS**

**4-11.1 Definitions**

For the purposes of P.L.2007, c. 209 (C.40:48-2.60 et seq.):

“Appropriate Municipal Agency” shall mean the agency determined by resolution by the Mayor and Council of the Borough of Mountainside.

“Solicitation” or “solicit” shall mean the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind of value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collection

of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

#### 4-11.2 Requirements for Placement, Use of Clothing Bins for Solicitation Purposes.

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

a. The person has obtained a permit, valid for a specified period of time, from the Appropriate Municipal Agency within the Borough of Mountainside in which the donation clothing bin will be placed, in accordance with the following:

(1) In applying for such a permit, the person shall include:

(a) The location where the bin would be situated, as precisely as possible;

(b) The manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) The name, and telephone number of the bona fide office, required pursuant to Section 5(a), of any entity which may share or profit from any clothing or other donations collected via the bin;

(d) Written consent from the property owner to place the bin on his property;

(e) Written proof of compliance with all other Ordinances of the Borough of Mountainside, including Land Use and Zoning Regulations, if applicable;

(f) The dates between which the bin shall remain at the specific location, but no longer than a one (1) year period at which time a renewal application must be filed; and

(g) Any other information required by the Borough of Mountainside on the Charitable Clothing Bin Application.

(2) The Appropriate Municipal Agency shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases.

(3) The Borough of Mountainside hereby imposes a fee for such application, in the amount of \$25, to offset the costs involved in enforcing P.L.2007, c. 209 (N.J.S.A. 40:48-2.60 et seq.).

(4) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of any fee imposed by the Appropriate Municipal Agency for such renewal, not to exceed \$25 annually, to offset the costs involved in enforcing P.L.2007, c. 209 (C.40:48-2.60 et seq.). Such renewal application shall include:

(a) the location where the bin is situated, as precisely as possible, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

(b) the manner in which the person has used, sold, or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal; and

(c) The name and telephone number of the bona fide office required pursuant to subsection 5(b) of this section, of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal.

(5) The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection 5(b) of this section:

(a) The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

(b) The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:

(i) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(ii) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;

(iii) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(iv) A statement, consistent with the information provided to the Appropriate Municipal Agency in the most recent permit or renewal application pursuant to paragraph a, (4)(b) and paragraph a, (1)(b) indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

#### 4-11.3 Receipt, Investigation of Complaints Relative to Donation Clothing Bin

If the Borough of Mountainside receives complaints from the public about a clothing bin, the Borough shall investigate into such complaints within thirty (30) days from the date the complaint was made. Whenever it appears to the Borough of Mountainside that a person has engaged in, or is engaging in any act or practice in violation of Section 2 of P.L.2007, c. 209 (N.J.S.A. 40:48-2.61), the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the Borough of Mountainside is not requested within forty-five (45) days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to

any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.

In the event that the person who placed the bin does not rectify the violation or request a hearing within forty-five (45) days of the posting of the warning, the Borough of Mountainside may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the Chief Financial Officer of the Borough of Mountainside.

#### 4-11.4 Additional Penalties, Remedies.

In addition to any other penalties or remedies authorized by the law of this State, any person who violates any provision of P.L.2007, c. 209 (N.J.S.A. 40:48-2.60 et seq.) which results in seizure of the donation clothing bin shall be:

a. Subject to a penalty of up to twenty thousand (\$20,000) dollars for each violation. The Borough of Mountainside may bring this action in the Municipal Court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," P.L. 1999 c. 274 (N.J.S.A. 2A:58-10 et seq.), and any penalty monies collected shall be paid to the Chief Financial Officer of the Borough of Mountainside.

b. If a person is deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to Section 2 of P.L. 2007, c.209 (N.J.S.A. 40:48-2.61), that person may apply to the Borough of Mountainside to have that their eligibility restored. The Borough of Mountainside may restore the eligibility of a person who:

(i) Acts within the public interest; or

(ii) Demonstrates that they made a good faith effort to comply with the provisions of P.L. 2007, c.209 (N.J.S.A. 40:48-2.60 et seq.) and all other applicable laws and regulations, or had no fraudulent intentions.

#### Section 2:

Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

#### Section 3:

If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

#### Section 4:

This ordinance shall take effect immediately upon its passage and adoption according to law.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Hearing no one wishing to speak, Councilman Turner closed the meeting to the public.

It was moved by Councilman Turner and seconded by Councilwoman Andre that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

**ORDINANCE 1256-2017**

**BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF MOUNTAINSIDE, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,000,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS**

BE IT ORDAINED by the Borough Council of the Borough of Mountainside, in the County of Union, State of New Jersey, as follows:

Section 1. The Borough of Mountainside, in the County of Union, State of New Jersey (the "Borough") is hereby authorized to make various public improvements in, by and for said Borough, as more particularly described in Section 4 hereof. The cost of the improvements includes all work, materials and appurtenances necessary and suitable therefor.

Section 2. There is hereby appropriated to the payment of the cost of making the improvements described in Sections 1 and 4 hereof (hereinafter referred to as "purposes"), the respective amounts of money hereinafter stated as the appropriation for said respective purposes. Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that the making of such improvements is not a current expense of said Borough.

Section 4. The several purposes hereby authorized for the financing of which said obligations are to be issued are set forth in the following "Schedule of Improvements, Purposes and Amounts" which schedule also shows (1) the amount of the appropriation and the estimated cost of each such purpose, and (2) the amount of each sum which is to be provided by the down payment hereinafter appropriated to finance such purposes, and (3) the estimated maximum amount of bonds and notes to be issued for each such purpose, and (4) the period of usefulness of each such purpose, according to its reasonable life, computed from the date of said bonds:

**SCHEDULE OF IMPROVEMENTS, PURPOSES AND AMOUNTS**

A. Undertaking of the following infrastructure improvements: (i) bank stabilization at various locations, (ii) sanitary and storm sewer improvements at various locations and (iii) reconstruction or resurfacing of various roads, including drainage improvements and curb construction or reconstruction, where necessary, as set forth on a list prepared by the Borough Engineer on file or to be placed on file with the Borough Clerk, and hereby approved as if set forth herein in full. Depending upon the contract price and other exigent circumstances, and upon approval by the Borough Council, there may be additions to or deletions from the list referred to in clause (iii) of the preceding sentence. It is hereby determined and stated that said roads to be improved are or will be of "Class A" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").

Appropriation and Estimated Cost	\$ 848,500
Down Payment Appropriated	\$ 40,450
Bonds and Notes Authorized	\$ 808,050
Period of Usefulness	20 years

B. Supplemental funding for the reconstruction of the softball field at Beechwood School. It is hereby determined and stated that the Borough has heretofore appropriated the sum of \$90,000 for such improvement pursuant to Ord. No. 1250-2016 adopted on July 19, 2016.

Appropriation and Estimated Cost	\$ 151,500
Down Payment Appropriated	\$ 9,550
Bonds and Notes Authorized	\$ 141,950
Period of Usefulness	15 years
Aggregate Appropriation and Estimated Cost	\$1,000,000
Aggregate Down Payment Appropriated	\$ 50,000
Aggregate Amount of Bonds and Notes Authorized	\$ 950,000

Section 5. The cost of such purposes, as hereinbefore stated, includes the aggregate amount of \$103,500 which is estimated to be necessary to finance the cost of such purposes, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 6. It is hereby determined and stated that moneys exceeding \$50,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Borough, are now available to finance said purposes. The sum of \$50,000 is hereby appropriated from such moneys to the payment of the cost of said purposes.

Section 7. To finance said purposes, bonds of said Borough of an aggregate principal amount not exceeding \$950,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 8. To finance said purposes, bond anticipation notes of said Borough of an aggregate principal amount not exceeding \$950,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 9. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 10. It is hereby determined and declared that the average period of usefulness of said purposes, according to their reasonable lives, taking into consideration the respective amounts of bonds or notes authorized for said purposes, is a period of 19.25 years computed from the date of said bonds.

Section 11. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of said Borough, and that such statement so filed shows that the gross debt of said Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$950,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 12. Any funds received from private parties, the County of Union, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purposes, shall be applied to the payment of the cost of such purposes, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purposes shall be reduced accordingly.

Section 13. The Borough intends to issue the bonds or notes to finance the cost of the improvements described in Sections 1 and 4 of this bond ordinance. If the Borough incurs such costs prior to the issuance of the bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 14. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 15. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 16. This ordinance shall take effect twenty days after the first publication thereof after final passage.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Hearing no one wishing to speak, Councilman Turner closed the meeting to the public.

It was moved by Councilman Mortimer and seconded by Councilman Turner that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

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**ORDINANCE 1257-2017**  
**AN ORDINANCE PROVIDING LICENSING REQUIREMENTS FOR CATS**

WHEREAS, the Mayor and Council of the Borough of Mountainside, County of Union, and State of New Jersey have determined that there is a need to protect the health, safety, and welfare of the residents of the Borough; and

WHEREAS, The Mayor and Council have determined it necessary to adopt policies and procedures for the licensing of cats in the Borough; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, County of Union State of New Jersey as follows:

Section 1.

Chapter V entitled ANIMAL CONTROL is hereby modified with the addition of Section 5-8 entitled "LICENSING OF CATS" as follows:

5-8 LICENSING OF CATS

5-8.1 Rabies vaccine and license required; exemptions.

No person shall own, keep, harbor or maintain any cat over seven months of age within the Borough of Mountainside unless such cat is vaccinated and licensed. The provisions of this section do not apply to cats held in cattery or those held by a state or federal research facility or to a veterinary establishment where cats are received or kept for diagnostic, medical, surgical or other treatments or licensed animal shelters, pounds, kennels or pet shops.

5-8.2 Licensing Requirement.

Each cat must have its license number displayed. Any person who shall own, keep, harbor or maintain a cat of licensing age shall annually apply for and procure from the Borough Clerk or designated representative a license and official metal registration tag with license number or a registration sleeve for each cat so owned, kept, harbored or maintained and shall place upon such cat a collar or other device with the license number securely fastened or displayed. Acceptable methods of displaying the license number shall include but are not limited to breakaway or elastic collars. License tags are not transferrable. As an alternative to displaying the license number by collar or similar device, an owner may utilize microchip technology as a form of identification of the animal. If microchip technology is employed then the owner shall provide this information to the Borough Clerk when the license for the cat is renewed each year.

5-8.3 Newly acquired cats of licensing age.

The owner of any newly acquired cat of licensing age or any cat which attains licensing age shall make application for a license tag or sleeve for such cat within ten (10) days after such acquisition of age attainment. This requirement will not apply to a nonresident keeping a cat within the Borough of Mountainside for not longer than ninety (90) days.

5-8.4 Cats brought into the Borough.

A. Any person who shall bring or cause to be brought into the Borough of Mountainside any cat licensed in another municipality for the current year and bearing a registration tag or sleeve and who shall keep the same or permit the same to be kept within the Borough of Mountainside for a period of more than ninety (90) days shall not be required to possess a license from the Borough of Mountainside for such a cat until the existing license expires. If the cat does not have an existing

license, or upon the existing license expiring, such person must obtain a license and registration tag or sleeve issued by the Borough of Mountainside for each such cat.

B. Any person who shall bring or cause to be brought into the Borough of Mountainside any unlicensed cat and who shall keep the same or permit the same to be kept within the Borough of Mountainside for a period of more than ten (10) days shall immediately apply for a license and registration tag or sleeve for each such cat.

#### 5-8.5 Application for license and tags; fees; interference with authority; disposition of collected fees.

A. The application shall state the breed, sex, color and markings of the cat for which licenses and registration are sought and whether it is of a long-haired or short-haired variety; and shall include a color photograph of the cat, to be provided in hard copy or electronically as such technology shall become available; the application shall also state whether the cat has a microchip or similar identification technology, as well as provide the name, street, post office address of the owner and the person who shall keep or harbor such cat. The application and the registration number issued for the cat shall be preserved for a minimum of three (3) years by the Borough Clerk or other local official designated to license cats in the municipality.

B. License forms and official tags or sleeves shall be furnished by the Borough Clerk and shall be numbered serially, shall bear the year of issuance, and shall bear the words "Borough of Mountainside," a reflection of the issuing municipality.

C. The Borough Clerk or designated representative shall not grant such license and official registration tag or sleeve for any cat unless the owner thereof provides evidence that the cat to be licensed and registered has been inoculated with a rabies vaccines of a type approved by and administered in accordance with the recommendations of the United States Department of Agriculture and the United States Department of Health and Human Services, which shall be valid through October 31 of the current licensing year, or has been certified exempt as provided by this section. The rabies inoculation shall be administered by a duly licensed veterinarian permitted by law to do the same. Such rabies vaccination must protect a cat for at least ten (10) months of the licensing year.

D. A license shall be issued as follows: for each calendar year or portion thereof, a payment of ten (\$10) dollars for each spayed or neutered cat and thirteen (\$13) dollars for each non-spayed or non-neutered cat. Said licenses, registration tags and renewals thereof shall expire on the last day of January each year.

E. If a license tag or sleeve has been misplaced or lost, the Borough Clerk or designated representative may issue a duplicate license and/or registration sleeve for that particular cat for a fee of five (\$5) dollars.

F. Proof of licensing shall be produced by any person owning, keeping, harboring or maintaining a cat upon request by any health official, police officer, animal control officer or other authorized person.

G. No person shall hinder or interfere with anyone authorized or empowered to perform any duty under this section.

H. License fees and other monies collected or received under provisions of this section shall be forwarded to the Chief Financial Officer of the Borough of Mountainside and shall be placed in a special account separate from any of the other accounts of the Borough of Mountainside and shall be used for the following purposes: collecting, keeping and disposing of cats liable to seizure; local prevention and control of rabies; providing anti-rabies treatment under the direction of the Board of

Health for any person known or suspected to have been exposed to rabies; and administering the provisions of this section. Any balance remaining in such special account shall be retained until the end of the third fiscal year following and may be used for any of the purposes set forth in this section. At the end of said third fiscal year following and at the end of each fiscal year thereafter, there shall be transferred from such special account to the general funds of the municipality any amount then in such account which is in excess of the total amount paid into the special account during the last two fiscal years next preceding.

5-8.6 Violations and penalties.

Any person violating any provision of this section shall be punished by a fine not less than fifty (\$50) dollars nor more than one thousand (\$1,000) dollars for the first offense; not less than two hundred (\$250) nor more than two thousand (\$2,000) dollars for a second offense; and no less than five hundred (\$500) dollars nor more than three thousand (\$3,000) dollars for the third offense and any subsequent offense. Each day the violation continues shall constitute a separate and distinct offense.

Section 2:

Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section 3:

If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 4:

This ordinance shall take effect immediately upon its passage and adoption according to law.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Hearing no one wishing to speak, Councilman Turner closed the meeting to the public.

It was moved by Councilwoman Fech-Caccamo and seconded by Councilman Messler that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

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**ORDINANCE 1258-2017**  
**AN ORDINANCE LIMITING THE NUMBER OF CATS AND DOGS AS WELL AS**  
**PROHIBITING THE FEEDING OF STRAY OR FERAL CATS**

WHEREAS, the Mayor and Council of the Borough of Mountainside, County of Union, and State of New Jersey have determined that there is a need to protect the health, safety, and welfare of the residents of the Borough; and

WHEREAS, the outdoor feeding of domesticated animals, including cats, within the Borough, attracts raccoons and other wild animals and encourages the establishment of feral and stray cats; and

WHEREAS, the Mayor and Council have determined that in furtherance of limiting the proliferation of stray animals it is appropriate to limit the number of dogs and cats that are permitted to live in residences within the Borough of Mountainside; and

WHEREAS, the Mayor and Council also have determined to prohibit the outdoor feeding of domesticated animals;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows:

#### Section 1.

Chapter V entitled ANIMAL CONTROL is hereby modified with the addition of Section 5-9 entitled "LIMIT ON NUMBER OF DOGS AND CATS; PROHIBITION ON FEEDING FERAL OR STRAY ANIMALS" as follows:

#### 5-9 LIMIT ON NUMBER OF DOGS AND CATS; PROHIBITION ON FEEDING FERAL OR STRAY ANIMALS.

##### 5-9.1 Definitions for the purposes of this Ordinance:

- Foster Placement - Is defined as a temporary placement of less than six (6) months that a domestic animal lives in a residence while the person who possesses such animal is attempting to find a permanent placement for the animal
- Residence, Multi-Unit - A dwelling which is occupied, as a rule, for permanent residence purposes and which is either sold, rented, leased, let or hired out, to be occupied as a residence or home with two or more separate independent units, each of which generally contains sanitary, sleeping, kitchen and dining facilities, fixed or portable.
- Residence, Single Unit - One or more rooms comprising living accommodations designed and used for occupancy with one (1) single housekeeping unit and typically containing sanitary, sleeping, kitchen and dining facilities, fixed or portable, for one such unit.

##### 5-9.2 Limit on Number of Dogs and/or Cats.

No more than six (6) dogs and/or cats are permitted to be harbored or kept in any single family residence. No more than three (3) dogs and/or cats are permitted to be harbored or kept in any single unit of a multi-unit residence. This Section shall not apply to cats or dogs that are in foster placement.

##### 5-9.3 Grandfathering.

If a resident had obtained the appropriate animal licenses, as required by any ordinance previously passed by the Borough Board of Health or the Borough Mayor and Council, for more than the number of animals permitted under Section 5-9.2, such resident shall be allowed to renew such licenses, provided however, that as the licensed animals die or otherwise are removed from the residence the resident shall not be permitted to replace same and instead will be limited to the number of animals permitted under Section 5-9.2.

##### 5-9.4 Feeding Prohibited

The feeding of stray or feral cats is prohibited. The maintenance and/or feeding of privately owned cats in such a manner as to create unsanitary conditions, attract vermin, or be potentially

detrimental to health or create a public health nuisance, including the feeding of cats outdoors, is hereby prohibited. All feeding of privately owned cats must occur indoors. "Indoors" is defined in this ordinance to mean all spaces in a residence enclosed by an exterior wall, or spaces in a residence enclosed by walls that are not exterior walls. Additionally, feeding is prohibited in any accessory building or structure, as defined by the Borough of Mountainside Land Use Ordinance, Art. 2, Sec. 201.

#### 5-9.5 Animal Nuisances

- A. It shall be unlawful for any person to permit a cat within their ownership or control to excrete feces onto any private or public property, without immediately removing and, within a reasonable time, properly disposing of such feces.
- B. Section 5-9.5, paragraph A. of this Ordinance shall not apply where the owner or occupant of private property grants permission for a cat to excrete feces on that property, provided such feces does not accumulate to such a degree that it shall create an objectionable smell or other nuisance to the public or neighboring properties. This exception shall not exempt such owners or occupants from being subject to the public nuisance, property maintenance and public health regulations of the Borough.
- C. The sanitary manner for removal of feces shall be by the placement of the removed feces in a sealed plastic bag and then further placed in said owner's own garbage or waste removal container and shall not be by placement of the feces, whether in a sealed plastic bag or not, in any garbage or waste container owned or maintained by the Borough of Mountainside or any garbage or waste container of any other person or entity, or storm sewer.

#### 5-9.6 Remedies

Should the circumstances described in Section 5-9.5(A) occur, where a resident who has not given permission for a cat to excrete feces on property controlled by the resident, and such feces are not removed within a reasonable time, the resident may contact the Borough Animal Control officials or such other persons as the Borough may designate, and request the trapping of the cat responsible at no cost to the complaining resident. When such a cat is trapped, Borough representatives will inspect the animal for license tags or scan for an identification microchip, as required by Borough Code, Section 5-8 et seq., and return the cat to its owner. If there is no evidence of license or microchip, the cat shall be turned over the animal shelter currently under contract with the Borough to accept stray animals.

#### 5-9.7 Violations and Penalties.

In addition to any other penalties or remedies authorized by the law of this State, any person who violates any provision of this Ordinance shall be:

Subject to a penalty of a fine not less than fifty (\$50) dollars nor more than one thousand (\$1,000) dollars for the first offense; not less than two hundred (\$250) nor more than two thousand (\$2,000) dollars for a second offense; and no less than five hundred (\$500) dollars nor more than three thousand (\$3,000) dollars for the third offense and any subsequent offense. Each day the violation continues shall constitute a separate and distinct offense. The Borough of Mountainside may bring this action in the Municipal Court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," P.L. 1999 c. 274 (N.J.S.A. 2A:58-10 et seq.), and any penalty monies collected shall be paid to the Chief Financial Officer of the Borough of Mountainside.

Section 2:

Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section 3:

If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 4:

This ordinance shall take effect immediately upon its passage and adoption according to law.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Delia Collins, Clark, NJ, questioned the notification process during mass trapping.

Ethel Ward, Poplar Avenue, expressed her concerns about trapping cats.

Victoria Wollny, Grouse Lane, was thankful that Mountainside has a TNR Program.

Helen Wollny, Grouse Lane, disagrees with regulating cat feeding.

Ms. Spatts, Spruce Drive, voluntarily implements TNR and questioned the importance of feeding feral cats.

Hearing no one else wishing to speak, Councilman Turner closed the meeting to the public.

It was moved by Councilwoman Andre and seconded by Councilman Dierkes that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

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**MOTION:**

The following motion was unanimously approved.

1. Authorization to appoint Jacob Pecorelli and Nicco Pecorelli as Volunteer Firefighters

**BILLS & CLAIMS:**

The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner:

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following bills of the persons named and for the amounts stated below, having been duly audited and found to be correct this 16<sup>th</sup> day of May 2017, the same be paid after Council's review, if and when funds are available and that the Mayor, Council President, Administrator and Treasurer are hereby authorized and directed to sign and deliver warrants for same in the amount of \$267,112.81 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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**COUNCIL COMMENTS:**

Councilman Mortimer expressed condolences to the Schon Family.

The Mayor invited the community to attend the Memorial Day Festivities.

**AUDIENCE PARTICIPATION:**

Anne Marie Palone, Hickory Lane, complained about the volume of commuters parking on her street. Administrator Debbie explained that in order to implement parking restrictions all the residents must be in agreement and sign a petition.

Hearing no one else wishing to speak, Mayor Mirabelli closed the meeting to the public.  
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Upon a motion by Councilman Dierkes and a second by Councilman Turner, the meeting was unanimously adjourned.

Meeting adjourned at 8:05 PM.  
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Martha Lopez  
Borough Clerk