

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

As per requirement of Public Law 1975, Chapter 231, notice is hereby given that this is a Regular Meeting of the Borough of Highlands Mayor and Council and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board. Formal Action will be taken.

Call to Order
Meeting Statement
Roll Call
Executive Session Resolution

EXECUTIVE SESSION: 7:00pm

Litigation: Valley Avenue Pipe Repairs
Attorney-Client Privilege: Bay Pointe at Highlands Condominium Association
Master Plan
Social Media
First Aid/Fire Department
Contract Negotiations: Bay Avenue Streetscape Phase 2

REGULAR MEETING: 8:00pm

Call to Order
Pledge of Allegiance
Roll Call

PUBLIC COMMENT - Resolutions

RESOLUTIONS

R-16-236 - Payment of Bills
R-16-237 - Municipal Alliance Form 1B
R-16-238 - Dedication by Rider
R-16-239 - Approving HBP 2017 Calendar of Events
R-16-240 - Resignation of Louis Bader

ORDINANCES - Public Hearing/Possible Adoption

O-16-23 - Amending Chapter 21-86, Minimum Yard Requirements for Front Decks in Existing Bungalow Colonies
O-16-25 - Amending Chapter 3-13, Permitted Parking at Public Parks of the Borough
O-16-26 - Amending Chapter 3, Regulations Pertaining to Motor Vehicle Towing & Storage Services
O-16-27 - Amending Chapter 6-3.4, License Fees for the Sale or Distribution of Alcoholic Beverages
O-16-28 - Authorizing a New Lease Agreement for the Lease of Borough Owned Property to the Baymen's Protective Association, Inc. for a Public Purpose

Other Business

Joint Committee Meeting Review
Highlands Business Partnership Schedule
Proclamation for the 85th Anniversary of Highlands Elementary School

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

Council/Committee Reports:

Council Member Broullon

Council Member Card

Council Member D'Arrigo

Council Member Wells

Public Comments:

Adjourn:

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

REGULAR MEETING: 8:00PM

Call to Order
Pledge of Allegiance

ROLL CALL:

Present: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan

Absent: Councilmember Card

Also Present: Brian Geoghegan, Borough Administrator

Dwayne Harris, Acting Borough Clerk

Brian Chabarek, Borough Attorney

Patrick DeBlasio, Borough CFO

Dale Leubner, Zoning Official

Plaque Presentation to Mayor Nolan – Council presented outgoing Mayor Frank Nolan for thanking him for his service.

Public Comment on Resolutions

Mayor Nolan opened the public comments portion on the resolutions.

Seeing no one wishing to speak, Mayor Nolan closed the meeting to public comments.

CONSENT AGENDA

R-16-236 - Payment of Bills

R-16-237 - Municipal Alliance Form 1B

R-16-238 - Dedication by Rider

R-16-239 - Approving HBP 2017 Calendar of Events

R-16-240 - Resignation of Louis Bader

A motion to approve the consent agenda was offered by Mayor Nolan and seconded by Councilmember D'Arrigo.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)

NAY: None (0)

ABSENT: Councilmember Card (1)

ABSTAIN: None (0)

The consent agenda have been properly approved.

Ordinances: Public Hearing & Possible Adoption

O-16-23 - Amending Chapter 21-86 of the Borough Code Concerning Minimum Yard Requirements for Front Decks in Existing Bungalow Colonies

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

Mr. Leubner explained the need for this amendment which Mr. Chabarek further explained that this would effect the Gravelly Point bungalow colony but not Honeysuckle bungalow colony. Councilmember Broullon stated that she found this unfair and it should pertain to all bungalow colonies. Mr. Chabarek responded that this was reviewed by the Land Use Board and would require a majority vote to change it.

The meeting was opened to the public on O-16-23.

Carol Bucco, Shore Drive, inquired on elevations which Mr. Leubner discussed with her.

The meeting was closed to the public.

A motion to amend this ordinance was offered by Mayor Nolan and seconded by Councilmember Broullon.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)
NAY: None (0)
ABSENT: Councilmember Card (1)
ABSTAIN: None (0)

O-16-23 been properly amended.

A motion to adopt O-16-23 was offered by Mayor Nolan and seconded by Councilmember Broullon.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)
NAY: None (0)
ABSENT: Councilmember Card (1)
ABSTAIN: None (0)

O-16-23 been properly adopted.

O-16-25 - Amending Chapter 3-13 of the Borough Code Concerning Permitted Parking at Public Parks of the Borough

Mr. Chabarek explained this ordinance. Mayor Nolan opened the public portion to comments on this ordinance.

Unidentified Resident, questioned if this meant that there was no overnight parking. The mayor and Councilmember Broullon explained that parking in the parking lots adjacent to public parks would be from 5:00 am to 10:00 pm.

Unidentified Resident, inquired which lots this was applicable. It was explained that the ordinance as it is now written does not allow for overnight parking in public parking lots adjacent to public parks. She expressed her concerns.

Mayor Nolan closed the public portion.

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

A motion to adopted this ordinance was offered by Mayor Nolan and seconded by Councilmember Kane-Wells.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)
NAY: None (0)
ABSENT: Councilmember Card (1)
ABSTAIN: None (0)

O-16-25 been properly adopted.

O-16-26 - Amending Chapter 3 of the Borough Code Concerning Regulations Pertaining to Motor Vehicle Towing and Storage Services

Brian Chabarek explained this ordinance. This ordinance is being amended to include background checks on tow truck drivers in the borough. Mayor Nolan opened the public portion to comments on this ordinance amendment. Seeing no one from the public wishing to speak to the public, Mayor Nolan closed the public portion.

A motion to adopt O-16-16 was offered by Mayor Nolan and seconded by Councilmember Broullon.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)
NAY: None (0)
ABSENT: Councilmember Card (1)
ABSTAIN: None (0)

O-16-26 been properly adopted.

O-16-27 - Amending Chapter 6-3.4 of the Borough Code Concerning License Fees for the Sale or Distribution of Alcoholic Beverages in the Borough

Brian Chabarek explained this ordinance. He stated that the borough is allowed by state statute to increase fees by up to twenty percent. Mayor Nolan opened the public portion to comments on this ordinance.

Carol Bucco, Shore Drive, asked if this meant that the increase was only for new licenses or if it was for renewals as well. Mr. Chabarek stated that the subsection of the ordinance does clarify this.

Mayor Nolan closed the public portion.

A motion to adopt O-16-27 was offered by Mayor Nolan and seconded by Councilmember D'Arrigo.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)
NAY: None (0)
ABSENT: Councilmember Card (1)
ABSTAIN: None (0)

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

O-16-27 been properly adopted.

O-16-28 - Authorizing a New Lease Agreement for the Lease of Borough Owned Property to the Baymen's Protective Association, Inc. for a Public Purpose

Mr. Chabarek discussed the details of the agreement and the ordinance. Mayor Nolan opened the public portion to comments on this ordinance.

Carol Bucco, Shore Drive, asked who was going to keep track of the number of clams that are sold. Mr. Chabarek answered her question.

Mayor Nolan closed the public portion.

A motion to adopt O-16-28 was offered by Mayor Nolan and seconded by Councilmember Broullon.

ROLL CALL:

AYE: Councilmembers Broullon, D'Arrigo, Kane-Wells & Mayor Nolan (4)

NAY: None (0)

ABSENT: Councilmember Card (1)

ABSTAIN: None (0)

O-16-28 been properly adopted.

Other Business

Joint Committee Meeting Review

Councilmember Broullon explained that there was a joint meeting of the Communications Committee, Environmental Commission, and the Green Team to get some information out to the community regarding proper recycling. She noted that improper recycling has been costing the borough a lot of money and getting this information out to the community would save money.

Highlands Business Partnership Schedule

Mayor Nolan stated that the HBP schedule for the calendar year 2017 is available online and in the borough hall.

Proclamation for the 85th Anniversary of Highlands Elementary School (HES)

Mayor Nolan reported on the HES event that was held to celebrate the 85th anniversary of the school. He stated that the school was doing a great job and that they would receive a copy of the proclamation.

Rutgers Landscape, Architectural, Design and Build Project

Councilmember Broullon explained that the borough was approached by Rutgers who asked to do another studio project which would include be in three phases which she explained each.

Mayor & Council Meeting Minutes
Community Center – 22 Sung Harbor - Highlands
Wednesday, December 21, 2016
8:00 pm

Public Comments:

Mayor Nolan opened the public portion.

Carol Bucco, Shore Drive, expressed concern over the paving that is being done in the town and asked why the water company isn't paying to pave Bay Street since they tore it up. Ms. Bucco also stated that people have been promised paved streets. Mayor Nolan spoke to the council and the administrator about into getting this done.

Mayor Nolan thanked the Borough and Council for a great ten years.

Mayor Nolan moved to adjourn.

Adjourn:

Approval of the Minutes

A motion to approve the Minutes of December 21st 2016 was made by Councilmember Kane-Wells and seconded by Councilmember Broullon.

AYE: Councilmembers Broullon & Kane-Wells (2)

NAY: None (0)

ABSENT: Councilmember Card & D'Arrigo (2)

ABSTAIN: Mayor O'Neil (1)

I, Bonnie Brookes, Deputy Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be the action of the Governing Body at its meeting held October 18th 2017.

Approve: 
Richard W. O'Neil, Mayor

Attest: 
Bonnie Brookes RMC, Deputy Clerk



BOROUGH OF HIGHLANDS
 COUNTY OF MONMOUTH

RESOLUTION 16-236

RESOLUTION AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain numbered vouchers have been submitted to the Borough of Highlands for payment from a list, prepared and dated December 15, 2016, which totals as follows:

| | |
|----------------------|---------------------|
| Current Fund | \$ 82,739.68 |
| Sewer Account | \$ 76,847.77 |
| Capital Fund | \$ 0.00 |
| Trust-Other | \$ 15,394.32 |
| Federal/State Grants | \$ 2,182.66 |
| Total | \$177,164.43 |

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the vouchers, totaling **\$177,164.43** be paid to the person[s] named, for the amounts set opposite their respective name[s], and endorsed and approved on said vouchers. An individual listing of all bills is on file in the Municipal Clerk's office for reference.

| | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------------------|------------|----------|-----|-----|---------|--------|
| BROULLON | | | X | | | |
| CARD | | | | | | X |
| D'ARRIGO | | X | X | | | |
| WELLS | | | X | | | |
| NOLAN | X | | X | | | |
| | | | | | | |
| ON CONSENT AGENDA: YES ___ NO | | | | | | |



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 16-237

MUNICIPAL ALLIANCE FORM 1B

WHEREAS, the **Governor's Council on Alcoholism and Drug Abuse** established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Borough of Highlands Council of the Borough of Highlands, County of Monmouth, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, the Borough of Highlands Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Borough of Highlands Council has applied for funding to the **Governor's Council on Alcoholism and Drug Abuse** through the County of Monmouth;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands, County of Monmouth, State of New Jersey hereby recognizes the following:

1. The Borough of Highlands Council does hereby authorize submission of a strategic plan for the Highlands and Atlantic Highlands Municipal Alliance grant for fiscal year **2018** in the amount of:

| | |
|------------|-------------|
| DEDR | \$31,960.00 |
| Cash Match | \$ 7,990.00 |
| In-Kind | \$23,970.00 |

2. The Borough of Highlands Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

APPROVED: _____
Frank L. Nolan, **Mayor**



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 16-238

RESOLUTION REQUESTING APPROVAL OF THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO ESTABLISH A DEDICATED TRUST RIDER FOR "STORM RECOVERY TRUST FUND"

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a Municipality when the revenue is not subject to reasonable accurate estimates in advance, and

WHEREAS, P.L. 2001 c.138 and NJS 40A:4-62.1 allows municipalities to receive amounts for a Storm Recovery Trust Funds, and

WHEREAS, NJS 40A:4-39 provides that the Director of the Division of Local Government Services may approve expenditures of monies by dedication by rider,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands, County of Monmouth, State of New Jersey as follows:

1. The Mayor and Council hereby request permission of the Director of the Division of Local Government Services to pay expenditures for Storm Reserve Trust Funds.
2. The Municipal Clerk of the Borough of Highlands is hereby directed to forward two certified copies of this resolution to the Director of the Division of local Government Services.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 16-23

AN ORDINANCE AMENDING CHAPTER 21-86 OF THE BOROUGH CODE CONCERNING MINIMUM YARD REQUIREMENTS FOR FRONT DECKS IN EXISTING BUNGALOW COLONIES

WHEREAS, N.J.S.A. 40:55-D-1, et seq., authorizes local governmental units to adopt ordinances to regulate land use to promote the public health, safety, morals and general welfare; and

WHEREAS, the Borough regulates land use and zoning by and through Chapter 21 of the Borough Code; and

WHEREAS, the Governing Body has determined that it is in the best interests of the residents of the Borough to amend Code Section 21-86 to provide for the within changes; and

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, as follows:

SECTION I.

The following section of Chapter 21, Section 86, Subsection A(4), "Single Family Residence", of the Borough Code shall be amended to provide as follows: (All additions are shown in **bold italics with underlines**. The deletions are shown as ~~***strikeovers in bold italics***~~. Sections of Chapter 21 that will remain unchanged are shown in normal type).

4. Bulk and Area Requirements.
 - a. Single-family dwellings shall meet the requirements shown in Schedule I.
 - b. Existing bungalow colonies shall meet the following requirements:
 - (1) Density shall not exceed the number of units existing at the time of the adoption of this ordinance, as shown on existing Borough Tax Maps and/or other tax records.
 - (2) Any application for expansion of an individual dwelling unit, either vertically or horizontally, shall meet the following standards:
 - (a) Every unit shall have associated with it a minimum

yard requirement around the perimeter of the unit and attached accessory structures of three (3) feet, *except for those decks attached to the front of the dwellings situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28, which may extend to locations equivalent to those which existed prior to elevation or reconstruction as determined by prior property surveys conducted by a licensed surveyor. For those properties situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28 that do not have prior property surveys available, any new decks attached to the front of the dwelling can extend to a location which is the equivalent of the location of the front decks located on adjacent properties situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28.* Structures shall be located no closer together than the sum of the yard requirements, that is, six (6) feet. Detached accessory structures are prohibited in the minimum required yard area.

- (b) Each unit shall have associated with it a minimum of one (1) parking space, located on site, either adjacent to the individual unit or in a common parking area
- (c) Total building coverage shall not exceed thirty-five (35%) percent of the total lot area and total lot coverage shall not exceed seventy-five (75%) percent except for those situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28.
- (d) Building height shall not exceed twenty (20) feet.
- (e) Shall require an application for a site plan for the entire property except for those situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28.

(3) Bungalow colonies shall not be subject to the provisions of Section 21-98F below:

SECTION II. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

and approval by the Mayor as described in N.J.S.A. 40:49-2.

| Introduction – O-16-23 | MOVED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|---------------------------|-------|----------|-----|-----|---------|--------|
| BROULLON | | X | X | | | |
| CARD | X | | X | | | |
| D'ARRIGO | | | X | | | |
| WELLS | | | X | | | |
| NOLAN | | | | | | X |

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held November 02, 2016.
WITNESS my hand this 3rd day of November 2016.



Dwayne M. Harris, RMC
Municipal Clerk

Second Reading and Public Hearing will be held on December 21, 2016.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 16-25

AN ORDINANCE AMENDING CHAPTER 3-13 OF THE BOROUGH CODE CONCERNING PERMITTED PARKING AT PUBLIC PARKS OF THE BOROUGH

WHEREAS, the Borough has made a determination to regulate parking within the public parks of the Borough; and

WHEREAS, in accordance with Chapter 3, Section 13 of the Borough Code, “It is necessary for the public interest, convenience, safety and proper enjoyment of the parks; for the proper maintenance and preservation of the parks; and for the general safety and welfare of the area surrounding the parks to make certain rules and regulations in connection with the use of same”; and

WHEREAS, in accordance with Chapter 3, Section 13.5 of the Borough Code, “All public beaches maintained and operated by the Borough of Highlands shall be considered public park areas within the meaning of this definition”; and

WHEREAS, the governing body has determined that certain changes should be made to the parking regulations within the public parks of the Borough and that these changes should be adopted for the general safety, health and welfare of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands as follows:

SECTION I.

The following section of Chapter 3, Section 13.13 entitled “Leaving Vehicles within Park at Night” of the Borough Code shall be amended to provide as follows: (All additions are shown in ***bold italics with underlines***. The deletions are shown as ***strikeovers in bold italics***. Sections of Chapter 3, Section 13.13 that will remain unchanged are shown in normal type).

3-13.13 ~~*Leaving Vehicles within Park at Night.*~~ ***Parking at Public Parks and Public Beaches***

~~*No person shall leave a vehicle standing or parked at night in established parking areas or elsewhere in the park areas.*~~

To the extent not otherwise regulated or prohibited by Chapter 7, Section 3 of the Borough Code, including Chapter 7, Section 3.4 Schedule I and Chapter 7, Section 3.6 Schedule IA, vehicles shall be permitted to park in the established or designated parking areas of the public parks and public beaches that are maintained and operated by the Borough between the hours of 5:00a.m. and 10:00p.m.

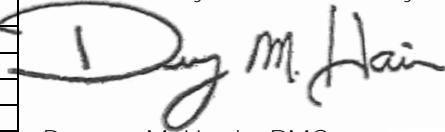
SECTION II. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

| Introduction O-16-25 | MOVED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------------|-------|----------|-----|-----|---------|--------|
| BROULLON | X | | X | | | |
| CARD | | | X | | | |
| D'ARRIGO | | | X | | | |
| WELLS | | | X | | | |
| NOLAN | | X | X | | | |

I, Dwayne M. Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 07, 2016. WITNESS my hand this 8th day of December 2016.



Dwayne M. Harris, RMC
Municipal Clerk

Public Hearing and possible adoption will be on December 21, 2016.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 16-26

AN ORDINANCE AMENDING CHAPTER 3 OF THE BOROUGH CODE CONCERNING REGULATIONS PERTAINING TO MOTOR VEHICLE TOWING AND STORAGE SERVICES

WHEREAS, N.J.S.A. 40:48-2.49, et seq., authorizes municipalities to regulate, by ordinance, the removal of motor vehicles from private or public property by operators engaged in such practice, including, but not limited to, the fees charged for storage following removal, fees charged for such removal, notice requirements therefor, and the mercantile licensing of such operators; and

WHEREAS, the Borough sets forth General Police Regulations by and through Chapter 3 of the Borough Code; and

WHEREAS, the Governing Body has determined that in order to promote the health, safety, and welfare of the public, that it is in the best interests of the residents of the Borough to amend Chapter 3 of the Borough Code to provide standards, regulations and rates pursuant to N.J.S.A. 40:48-2.49 et seq. for law enforcement agency requested and non-preference motor vehicle towing and storage services requiring a response thereto by the licensees; and

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, that Chapter 3, Section 26 entitled "Regulations Pertaining to Motor Vehicle Towing and Storage Services" is hereby created as follows:

I. PROCEDURE

A. DEFINITIONS

1. Authorized storage facility
Any auto body repair shop or service station which has a temporary storage facility for disabled or abandoned vehicles in accordance with the Borough of Highlands or other municipality's Land Use Ordinance.
2. Applicant
An individual or legally formed business entity which seeks to obtain a license from the Chief of Police to furnish towing services within the municipality pursuant to this Chapter.
3. Chief of Police
The Chief of the Police Department of the Borough of Highlands or anyone designated by him/her.

4. Heavy Duty Vehicle
Any truck, omnibus or other vehicle, 26,001 pounds or greater, or any over-height or over-width vehicle.
5. Light-Duty Vehicle
Any passenger automobile, station wagon, pickup truck or panel truck up to 15,000 pounds, or any motorcycle, or all-terrain vehicle.
6. Medium-Duty Vehicle
Any truck, omnibus or other vehicle from 15,001 to 26,000 pounds.
7. Operator
The person, firm or corporation which owns or leases and operates or causes to be operated a tow truck and includes the word "owner" and "permittee."
8. Owner
Any person, firm or corporation who owns and/or operates a vehicle on the roads and highways which vehicle by reason of being disabled or being unlawfully upon said roads requires towing services.
9. Police Officer
Any regular police officer, Class I or Class II Special Police Officer and any State Police Officer and/or their designee.
10. Storage rate charges
Shall begin at 12:01a.m. of the next day, and each day shall end at 11:59 p.m. Storage fees are calculated based on full twenty-four hour periods that a vehicle is in the storage facility.
11. Towing Apparatus
A motor vehicle, including but not limited to a wrecker, tow truck or flatbed truck, employed for the purpose of towing, transporting, conveying and removing any vehicle without causing damage to the vehicle being towed or transported.
12. Vehicles
Includes but is not limited to automobiles, trucks, tractors, trailers, motorcycles, minibikes, mopeds, go-carts, trail bikes, buses, ski mobiles, farm equipment or any other mechanically powered conveyance which shall become disabled or required to be towed from the scene of an accident or in order to safeguard the public health, safety and welfare.
13. Wreckers
A vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying or removing any and all kinds of vehicles, or parts of vehicles, which are unable to be operated under their own power for which a service charge or fee is exacted.

B. LICENSE REQUIRED; TRANSFERABILITY

1. No person, firm or corporation shall participate in the police towing of vehicles within the Borough without first having obtained a towing license as hereinafter provided.
2. A license issued under this chapter shall not be transferable.

C. APPLICATION; FEE

Applications for licenses issued under this regulation shall be made upon forms made available by the Chief of Police. An application fee of \$150.00 to cover administrative expenses must be paid in full at the time of the submission of the completed application. The application shall include the following information:

1. The full name and address of the applicant. If the applicant is made for a corporation, it shall state the names and addresses of the officers and directors thereof, its registered office and its registered agent.
2. The description, by make, model, license number, year, vehicle identification number and color, of all towing apparatus for which licenses are requested, together with the principal location at which the towing apparatus will be maintained.
3. The block and lot number and mailing address of the garage at which the applicant has space available for properly accommodating and providing for the security of all towed motor vehicles. The storage facility must be able to accommodate at least 10 motor vehicles. The location of the storage facility and the location where their wreckers are principally housed may not be more than five driven statute miles over roadways leading to and from the boundaries of the Borough of Highlands. In order to ensure the prompt clearing of Highlands roadways and further ensure the safety of drivers and stranded motorists, priority will be given applicants who meet the above-referenced criteria and are closest in statute miles over roadways leading to and from the boundaries of the Borough of Highlands.
4. A letter from the Zoning Officer of the municipality in which the premises is located verifying that the storage of motor vehicles is a permitted use upon the premises where the garage is located. At no time shall there be more vehicles stored upon the premises where the garage is located than that permitted by the municipality where vehicles are stored.
5. The certificates of required insurance.
6. A fully executed employment nondiscrimination statement.
7. Certification that the applicant is in full compliance with all state and federal laws and regulations concerning wages, hours and terms of employment.
8. A copy of a mercantile license issued to the business if the municipality wherein

the business is located requires such license.

9. All applicants, towing operators, agents of applicants, as well as officers and directors of a corporation must submit to a criminal history check.
10. No towing operator shall be directly involved with another applicant.

D. FILING DATE; ISSUANCE OF LICENSE

Upon this chapter becoming effective, applications shall be received by the Chief of Police during the thirty-day period immediately following and shall be acted upon in accordance with the provisions of this chapter. The Chief of Police shall recommend to the Mayor and Council the issuance of towing licenses for their consent and approval. All licenses issued under this chapter shall expire on the last day of December next succeeding the date of issuance. Prior to renewal of any license issued hereunder, the Chief of Police shall conduct a review of all license holders to assess their compliance with the terms and provisions of the within ordinance and any other regulatory statutes, if applicable.

E. INVESTIGATION; DECISION ON APPLICATION

Within 30 days after the receipt of an application, the Chief of Police shall cause an investigation to be made of the applicant and his or her proposed business operation and shall make or have made an inspection of the towing apparatus proposed to be used in connection therewith. All applicants and/or operators shall be fingerprinted, and a license shall not be issued to a person convicted of a crime of moral turpitude. The Chief of Police may delegate the inspection of the towing apparatus to a person or persons who shall make such an inspection and who shall report to the Chief of Police whether the towing apparatus is in a condition that will not interfere with the public health, safety and welfare and complies with the requirements and standards of this chapter. Upon completion of the investigation and inspection, the Chief of Police shall either refuse to approve the application or shall approve the application in accordance with the standards herein provided and shall inform the applicant of his decision.

F. CONDITION OF ISSUANCE OF LICENSE

The Chief of Police shall approve an application when he finds that the following requirements have been met by the applicant:

1. The insurance policies as required have been procured and supplied.
2. The applicant has at least one wrecker/tow truck in use and operation in order to assure the efficient and diligent dispatch of towing apparatus upon the request of the Police Department.
3. The requirements of this chapter and all other applicable laws, statutes and ordinances have been complied with.
4. All towing apparatus proposed to be used have been properly licensed and

conform to the State Motor Vehicle Laws.

5. The towing apparatus to be approved meet the required minimum standards as set forth herein.
6. The towing contractor must be able to respond to all calls for service by the Highlands Police Department within a reasonable amount of time, preferably 10 minutes but not more than 30 minutes. Although it is stated in other sections of this chapter, failure to meet this time requirement will initially result in the Police Department calling the next wrecker in the rotation; however, any three failures to comply with the required response time could result in the offending wrecker service being dropped from the list and revocation of its license.
7. Payment of a \$150 licensing fee.
8. There shall be no charge for any towing of any municipally owned vehicle to a location within five driven miles of the boundaries of the Borough of Highlands.

G. MINIMUM STANDARDS FOR LICENSING

The following shall serve as a minimum standard licensing. A wrecker or tow truck or flatbed truck shall be capable of handling, removing and towing any vehicle as defined in this chapter and must have or be equipped with the following:

1. All wreckers and towers and flatbed trucks shall have a minimum weight of one ton, according to the manufacturer's specifications.
2. A power takeoff or an adequate electric-operated winch with a minimum cable thickness of three-eighths-inch steel.
3. A three-eighths-inch safety chain. The lift chair and the safety chain are not to be attached in any form or manner to the same part of the tow truck or wrecker or a flatbed truck.
4. Front and rear flashing hazard lights.
5. A 360° rotating amber beacon light mounted above the cab or an approved light bar. Proper permits are required for the amber light and proof of such permit shall be provided with the application for the towing license.
6. All lights shall be of such candlepower and intensity so as to be visible 1/4 of a mile away.
7. The company name, address and phone number permanently affixed on both sides of the wrecker or tow truck or flatbed truck. The letters and numbers shall be a minimum of three inches in height.
8. A proper motor vehicle car dolly for each wrecker.
9. Approved towing slings.

10. Clean-up equipment. All tow vehicles are responsible for the prompt and safe removal of the disabled vehicle(s) and for the prompt and complete removal of all litter, debris and spillage resulting from the accident and must carry a broom, rake, trash can and bags, shovel and speedy dry-type material to absorb, remove and properly dispose of any litter, debris and or spillage resulting from the accident, with the exception of hazardous materials, as set forth in N.J.S.A. 39:4-56.8.
11. Safety equipment. All towing apparatuses shall have: a universal towing sling; one snatch block for 3/8 to 1/2 inch cable, two high-test safety chains; auxiliary safety light kit on rear of towed vehicles; four-lamp or three-lamp revolving amber light or lamp bars of at least five hundred candle power pointed to the rear and mounted as to not be obstructed by the towed vehicle; at least three flares or other suitable warning devices visible for a distance of not less than one thousand feet from the disabled vehicles; toolbox with assortment of hand tools; rear working lights and rear marker lights; cab lights; body-clearing lights located to clear towed vehicle; blocking choke for wrecker; safety cones; steering wheel lock or tie-down; two-way radio communication system; and operational fire extinguisher designed for vehicular fires.
12. All towing apparatuses must be maintained and operated in accordance with all existing traffic regulations and in a safe and prudent manner.
13. Commercial motor vehicle plates.
14. One twenty-pound dry chemical fire extinguisher
15. Additionally, all towing operators and their drivers shall be fully trained and knowledgeable in the operation of all required equipment.
16. The applicant must own or lease an operational fax machine capable of transmitting correspondence via telephone lines.
17. Minimum Storage Standards
 - a. Outside storage facility, fenced and secured large enough to accommodate at least ten (10) passenger vehicles.
 - b. All storage facilities shall have proper sign identification.
 - c. Storage areas shall be lit from dusk through dawn.
 - d. Storage locations shall be in compliance with all applicable codes and municipal ordinances and shall be zoned for all the uses for which they are or will be dedicated.

The storage facility to which the vehicle is towed shall have a business office open to the public between 8:00 a.m. and 6:00 p.m., Monday through Friday, excluding holidays. To accommodate customers who cannot retrieve the vehicle within that timeframe on those days, the towing company shall allow the vehicle to be released on Saturday between 8:00 a.m. and 4:00 p.m. or shall make other reasonable arrangements to allow the vehicle to be released.

H. INSURANCE POLICIES AND INDEMNIFICATION AGREEMENT

1. Each licensee shall obtain and provide proof of coverage of the following policies of insurance naming the Borough, where applicable, as an additional named insured prior to the issuance of the towing license:
 - a. Automobile liability in an amount not less than \$1,000,000.00 combined single limit.
 - b. Garage keeper's policy covering fire, theft and explosion in the minimum amount of \$1,000,000.00 as well as collision coverage for vehicles in tow.
 - c. Garage liability in an amount not less than \$1,000,000.00 combined single limit.

Miscellaneous coverage to provide complete protection to the Borough against any and all risks of loss or liability, including comprehensive general liability in the amount of \$1,000,000.00, on hook insurance in the amount of \$100,000.00, cargo insurance in the amount of \$500,000.00 and workers' compensation insurance for their employees.

2. Each insurance policy required herein must contain an endorsement providing 10 days' notice to the Borough in the event of cancellation, revision or modification. The aforesaid insurance policies must be in full force and effect for the entire time period the towing license is issued, and these insurance policies must be written by insurance companies authorized to conduct business in New Jersey and have a satisfactory rating from the Commissioner of Insurance.
3. Prior to the issuance of a towing license, the licensee must duly execute an indemnification agreement in which the licensee agrees to indemnify and hold the Borough harmless from any and all loss or damages, including but not limited to attorney's fees and costs of suit, arising from the conduct of the licensee in the course of towing or attempting to tow any vehicles pursuant to the terms of the license granted.

I. INSPECTION, ENFORCEMENT

The Chief of Police or his designee is hereby authorized to establish reasonable rules and regulations for the inspection and operation of towing apparatus and for the design, construction, maintenance and conditions for the safe conduct of a towing service business, in accordance with the standards provided in this chapter. All vehicles shall be maintained in good working order and meet minimum safety standards. If at any time the Chief of Police shall find the equipment inadequate or unsafe or not complying with the Motor Vehicle Laws of the State of New Jersey or in the event that the towing business operator shall fail to comply with the provisions of this chapter or the provisions of the Zoning Ordinances of the Borough of Highlands or the municipality in which it is situated, he shall have the power to demand immediate correction, and, if not corrected, the Chief shall have

the authority to revoke or suspend the license and schedule a hearing relative thereto. The Chief of Police is also hereby authorized and empowered to establish from time to time such additional rules and regulations, not inconsistent herewith, as may be reasonable and necessary in effectuating and carrying out the terms and provisions of this chapter.

J. APPEAL

An appeal of the Police Chiefs ruling shall be filed with the Borough Clerk within 10 calendar days of the Chiefs decision. A hearing before the governing body shall be held within 30 calendar days of the filing, with a ruling forthcoming from the governing body within 20 calendar days of the conclusion of the hearing or at the next regularly scheduled meeting.

K. RATES

A. Every licensed owner of towing apparatus shall give the owner of the vehicle a written receipt for the fee paid for the rendering of any towing service hereunder. Copies of receipts shall be maintained by the garage owner for three years and be made available for inspection by authorized Borough officials. This chapter requires that all towing contractors adhere to rules and rates and schedules established by the Department of Insurance, N.J.A.C. 13:45A-31.1 et seq., and N.J.S.A. 40:48-2.49 et seq. A copy of said laws will be provided to all approved contractors. Fees may be charged that are less than the rates specified in N.J.A.C. 13:45A-31.1 et seq. and N.J.S.A. 40:48-2.49 et seq. This chapter also seeks to assure the timely dispatch of adequate towing equipment to scenes of accidents and in other circumstances requiring the removal of vehicles in order to safeguard the public health, safety and welfare. The Borough shall not be liable for any of the services performed by the tower unless those services are performed for municipal vehicles. The tower shall proceed directly against the owner of the motor vehicle for the recovery of any fees or charges.

B. Allowable Fee Schedule to be Charged by Operator

Towing Charge

Light Duty Vehicles \$150.00

Medium Duty Vehicles \$200.00

Storage Charge \$35.00 per day

C. A licensed operator that engages in towing at the request of the Borough shall calculate storage fees upon full twenty-four hour periods that a vehicle is in the storage facility. For example, if a vehicle is towed to a storage facility at 7:00 p.m. on one day, and the owner picks up the vehicle before 7:00 p.m. the next day, the operator shall charge the owner of the vehicle only for one day of storage. If a vehicle is stored for more than 24 hours, but less than 48 hours, the operator may charge for two days of storage. However, time shall not begin to accrue for the purposes of calculating storage fees until the time the vehicle

actually reaches the storage site.

D. In accordance with N.J.A.C. 13:45A-31.4, in the case of a vehicle involved in an accident, the following additional services, if actually performed, may be charged:

1. Site cleanup, which shall be calculated based upon the number of bags of absorbent used, at a maximum rate of \$25.00 per bag.
2. Winching, which shall be based upon each 1/2 hour spent performing winching, which shall be at a maximum rate of \$100.00 per 1/2 hour for light-duty vehicles and \$150.00 per 1/2 hour for medium-duty vehicles.
3. Use of special equipment other than the first tow truck to recover a motor vehicle that cannot be recovered by winching or pieces of a motor vehicle that cannot be moved by hand, which may be both a labor and an equipment charge billed in half-hour increments at \$50.00 per 1/2 hour.

E. In addition to the fees allowed to be charged against towed vehicles within this section, the Borough has the authority to charge a tow release processing fee of up to \$25.00 per vehicle.

L. CONDUCT OF OWNERS AND OPERATORS

A tow license hereunder shall be issued subject to the following conditions:

1. No person owning or operating a towing apparatus licensed under this regulation shall permit or invite loitering within or near the towing apparatus when in use.
2. No person shall solicit, demand or receive from any person any commission or fee except the fee for transporting the vehicle to be towed.
3. No person shall pay any gratuity, tip or emolument to any third person not involved in the towing or removal of any vehicle or to any police officer for any information as to the location of any accident or for soliciting the employment of the operator's services.
4. The holder of a towing license shall not release to anyone any motor vehicles towed by said license holder without first obtaining a towed vehicle release form issued by the Highlands Police Department or a verbal release authorization if that is all that is required by the Police Department.
5. The holder of a towing license shall forthwith and without delay release to the owner thereof any motor vehicle which has been towed or stored by said license holder upon payment of the towing and/or storage fee and obtaining of a receipt for said vehicle from the owner thereof, during reasonable hours of business.

M. RECORDS REQUIRED TO BE KEPT

1. Vehicles towed by the Police Department. All companies on the towing list shall maintain a record regarding all vehicles towed at the request of the Police Department. This record shall be made available to any police officer for inspection upon request and shall contain the following information:
 - a. The date, time, location and name of the towing apparatus and the name of the driver who towed at the Department's request.
 - b. The physical location of the vehicle after being towed.
 - c. Identification of the towed vehicle, to include make, year, model, color, vehicle identification number, license number and the name of the registered owner or operator, if known.
 - d. Fee charged for such towing service and the manner in which said fee was calculated.
2. A list of all vehicles presently stored shall be submitted to the Highlands Police Department, including the following:
 - a. The make, model and color.
 - b. The registration number and state of registration.
 - c. The vehicle identification number.
 - d. The officer's name requesting the tow or impound
3. The applicant shall maintain all records by means of a computer system to facilitate an expedient and efficient means of retrieving all tow-related information and shall maintain all records at one central location. These records shall be kept for a three (3) year period.
4. The applicant shall maintain accurate records of owner notification(s) and attempted notifications.

The applicant must comply with the recordkeeping provisions in accordance with N.J.A.C. 13:45A-31.9.

N. NOTICE TO VEHICLE OWNERS

All tow wrecker operators shall be required to contact the registered owner of the towed vehicle in order to promptly facilitate the removal of said vehicle from the storage facility. Failure to notify promptly will require the towing contractor to adjust his or her total storage charges as is reasonable for his or her failure to notify. The tow operator will be required to contact the registered owner via the postal service, by registered mail, after the vehicle has been at the storage facility for 20 days. If this mail notification has not been performed, storage charges arising after that period of time will not be charged. The towing contractor may continue charging storage fees provided that all conditions have been met. A copy of the

receipt, along with the time and date of telephone conversations, will be maintained and be made available to the Police Department immediately upon request. Failure to submit the required information will result in the removal of the towing service from the tow list, and any request for storage fees will be subject to critical examination. The Highlands police will, at the tow operator's request, supply related information as to the owner of the vehicle, the owner's last known address and any other data that may be of assistance.

O. ROTATING CALL LIST; HEAVY DUTY VEHICLES

1. The Police Department shall establish and publish a call list for all eligible licensees for the purpose of towing service within the Borough. Each licensee deserving to be placed on the list shall agree to the terms and conditions as may be set and approved by the Chief of Police. The list shall be in alphabetical order and rotated so to be equal to all licensees. Any licensee shall be removed from the list upon:
 - a. Written request from the licensee.
 - b. Failure to comply with the terms and conditions as prescribed by the Chief of Police.
 - c. Revocation of towing license.
2. Approved towing contractors will be placed on a daily rotating call basis. On their respective designated days, towing contractors will be expected to respond anywhere in the Borough of Highlands. In the event that the holder of a towing license is unavailable or unable to perform all or part of his or her designated days, it shall be that towing contractor's obligation to provide the Police Department with the name of another licensed towing contractor who has agreed to provide service for all or part of that rotation. A towing contractor who fails to provide such coverage shall forfeit his next scheduled rotation. A second failure to provide coverage could result in that towing contractor's removal from the list and revocation of his or her license. The Police Department shall keep a list of all requests for towing apparatus, indicating therein the date, time and place to which called and whether the tower called was available and, if not available, the reason why and the name of the towing license holder next called. No tower shall respond to the scene of an accident except upon notification by the officer in charge at the scene of an accident or at police headquarters or upon the request of the driver or owner of the vehicle concerned. Towing apparatus must be dispatched upon receipt of notification from the Police Department and shall arrive at the scene within a reasonable period of time, preferably not more than 10 minutes after being so notified. If at any time more than two wreckers are required in order that the performance of towing services may be efficiently rendered and the public's traffic safety assured, the Police Department is hereby authorized to call upon one or more approved holders of towing licenses to respond to the dispatch of the Police Department.
3. Additional rules and regulations regarding the rotation of wreckers as may be

promulgated hereunder by the Chief of Police shall take effect immediately after mailing, by certified mail return receipt requested, a copy thereof to all license holders for towing apparatus in the Borough, which mailing may be made by addressing same to the license holders at their last known addresses.

4. The foregoing shall not limit in any way the authority herein conferred upon the Chief of Police to promulgate rules and regulations providing for the removal and storage of disabled heavy-duty motor vehicles such as tractor-trailers and construction equipment requiring specialized towing equipment.

P. CLEAN UP AT THE SCENE OF ACCIDENT

The driver of the towing apparatus shall be required to clean up broken glass and debris from the scene of any accident to which it is called before leaving the scene thereof. All towing apparatus shall be equipped with a broom, rake, shovel and special dry and waste containers.

Q. APPLICATION OF REGULATIONS

This chapter shall not apply where the towing apparatus is called to perform services by the owner of the disabled vehicle to be towed or serviced, nor shall any provision contained herein be interpreted or construed in any manner as to interfere with or obstruct a member of the Highlands Police Department in the performance of his/her duties and the enforcement of the Motor Vehicle Traffic Laws of the State of New Jersey.

R. PRESERVATION AND RELEASE OF EVIDENCE

1. The tower shall take all reasonable precautions to protect evidence when required to by the Highlands Police Department. When required, all such vehicles shall be stored as requested and in, a manner so as to protect the evidentiary nature of the vehicle. Such vehicles shall be stored and covered so as to prevent any unauthorized individuals from tampering with or removing any item(s) from the vehicle.
2. Release of any evidence, property or vehicle shall not occur unless written authorization has been obtained by the tower from the Highlands Police Department authorizing said release.

S. CONDUCT OF EMPLOYEES; COMPLAINTS

1. The licensee shall be solely responsible for the conduct of his or her employees.
2. Any complaints received by the Borough of Highlands regarding the licensee or his or her employees involving excessive charging, damage to vehicles, theft from vehicles, discrimination or failure to comply with local, state or federal laws regarding workers' employment regulations shall be addressed to the Chief of Police for review. After review, if the complaint(s) is substantiated, the license of said tower may be revoked or suspended.

T. STORAGE ON MUNICIPAL PROPERTY; FEES

In the event that it shall become necessary to store any privately-owned motor vehicle, or any type of trailer or similar accessory equipment, upon municipal property, the owner or owners of such vehicle or equipment shall be charged a fee of \$15.00 for each day of storage or part thereof. No such vehicle or equipment shall be released until the storage fee provided herein shall have been paid in full.

U. LICENSE SUSPENSION OR REVOCATION

The Chief of Police shall have the authority to suspend or revoke a towing license for violations of safety standards or rules and regulations of operation after notice and opportunity to be heard. The following shall serve as a guide in imposing sanctions:

| | |
|-----------------|--------------------------|
| First offense: | Suspension for one week |
| Second offense: | Suspension for two weeks |
| Third offense: | Revocation of license |

V. VIOLATIONS AND PENALTIES

Any persons violating the provisions of this chapter shall be subject to a penalty as set forth in Chapter 3-9 entitled Penalty for each violation and/or removal from the approved towing list.

W. SEVERABILITY

Each section, subsection, sentence, clause and phrase of this chapter is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this chapter to be unconstitutional, void or ineffective for any cause, or reason, shall not affect any other portion of this chapter.

SECTION II. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

| Introduction O-16-26 | MOVED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------------|-------|----------|-----|-----|---------|--------|
| BROULLON | | | X | | | |
| CARD | | X | X | | | |
| D'ARRIGO | | | X | | | |
| WELLS | | | X | | | |
| NOLAN | X | | X | | | |

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 07, 2016. WITNESS my hand this 8th day of December 2016.



Dwayne M. Harris, RMC
Municipal Clerk

Public Hearing and possible adoption will be on December 21, 2016.

| Adoption O-16-26 | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|---------------------|------------|----------|-----|-----|---------|--------|
| BROULLON | | X | X | | | |
| CARD | | | | | | X |
| D'ARRIGO | | | X | | | |
| WELLS | | | X | | | |
| NOLAN | X | | X | | | |

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 21, 2016. WITNESS my hand this 23rd day of December, 2016.



Dwayne M. Harris, RMC
Acting Municipal Clerk

X

Frank Nolan
Mayor

December 27, 2016



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 16-27

AN ORDINANCE AMENDING CHAPTER 6-3.4 OF THE BOROUGH CODE CONCERNING LICENSE FEES FOR THE SALE OR DISTRIBUTION OF ALCOHOLIC BEVERAGES IN THE BOROUGH

WHEREAS, Chapter VI of the Borough Code entitled Alcoholic Beverage Control regulates the sale and transportation of alcoholic beverages in the Borough of Highlands, in accordance with the applicable State Statutes and the Rules and Regulations of the State Director of Alcoholic Beverage Control; and

WHEREAS, Chapter 6-3.4 of the Borough Code regulates the annual license fees charged for the sale or distribution of alcoholic beverages in the Borough; and

WHEREAS, N.J.S.A. 33:1-12, et seq. regulates the permissible fees by class of license for the sale or distribution of alcoholic beverages in the Borough and permits the governing body to fix the fees within a permissible range and to raise or lower the fees charged from that charged in the preceding license year;

WHEREAS, the Governing Body has determined that it is in the best interests of the residents of the Borough to amend Code Section 6-3.4 to raise the license fees charged for the sale or distribution of alcoholic beverages in the Borough by 20% from that charged in the preceding year in accordance the aforesaid statutory provisions.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, as follows:

SECTION I.

The following section of Chapter 6-3.4 entitled "License Fees; Maximum Number" of the Borough Code shall be amended to provide as follows: (All additions are shown in **bold italics with underlines**. The deletions are shown as ***strikeovers in bold italics***. Sections of Chapter 6-3.4 that will remain unchanged are shown in normal type).

6-3.4 License Fees; Maximum Number.

The annual license fees and maximum number of licenses for the sale or distribution of alcoholic beverages in the borough shall be as follows:

| <i>Class of License</i> | <i>Annual License</i> |
|-----------------------------|---------------------------------------|
| Plenary Retail Consumption | \$864.00 <u>\$1,036.00</u> |
| Plenary Retail Distribution | \$628.00 <u>\$753.00</u> |
| Club License | \$100.00 <u>\$120.00</u> |

The provisions of this subsection with respect to the limitation on the number of licenses shall not apply to the renewal or transfer of licenses presently issued.

BE IT FURTHER ORDAINED, by the governing body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey that the aforesaid annual license fees shall become effective January 1, 2017.

SECTION II. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

| Introduction O-16-27 | MOVED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------------|-------|----------|-----|-----|---------|--------|
| BROULLON | | | X | | | |
| CARD | X | | X | | | |
| D'ARRIGO | | | X | | | |
| WELLS | | | | X | | |
| NOLAN | | X | X | | | |

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 07, 2016. WITNESS my hand this 8th day of December 2016.



Dwayne M. Harris, RMC
Municipal Clerk

Public Hearing and possible adoption will be on December 21, 2016.

| Adoption O-16-27 | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|---------------------|------------|----------|-----|-----|---------|--------|
| BROULLON | | | X | | | |
| CARD | | | | | | X |
| D'ARRIGO | | X | X | | | |
| WELLS | | | | X | | |
| NOLAN | X | | X | | | |

Dwayne M. Harris, RMC
Acting Municipal Clerk

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 21, 2016. WITNESS my hand this 23rd day of December, 2016.



X

Frank Nolan
Mayor

December 27, 2016



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 16-28

ORDINANCE AUTHORIZING A NEW LEASE AGREEMENT FOR THE LEASE OF BOROUGH OWNED PROPERTY TO THE BAYMEN'S PROTECTIVE ASSOCIATION, INC. FOR A PUBLIC PURPOSE

WHEREAS, by way of Ordinance O-95-18, the Borough was authorized to enter into a lease with the Baymen's Protective Association, Inc., a non-profit corporation which is tax-exempt under State and Federal law, in order to lease Borough owned property for a public purpose within the meaning of N.J.S.A. 40A:12-14 and 15; and

WHEREAS, the said lease was for Borough owned property located at 76 Fifth Street, Highlands, New Jersey, designated as Block 67, Lot 1 on the Borough of Highlands Tax Map, for the real property and improvements located thereon, including a facility known as the James T. White Clam Depuration Plant, with an initial term of September 1, 1995 through August 31, 2005, which was then renewed for a term through August 31, 2015 and thereafter extended by agreement; and

WHEREAS, the Governing Body has determined that it is in the best interests of the residents of the Borough to enter into a new lease agreement with the Baymen's Protective Association and wishes to continue to lease the aforesaid Borough owned property located at 76 Fifth Street, Highlands, New Jersey for a public purpose within the meaning of N.J.S.A. 40A:12-14 and 15.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, that the Mayor and Borough Clerk are hereby authorized to enter into and execute a new lease agreement with the Baymen's Protective Association, Inc. for the aforesaid Borough owned property located at 76 Fifth Street, Highlands, New Jersey, which has been the subject of negotiations by and between the Borough officials and the Baymen's Protective Association, Inc., which lease will be on file at the office of the Borough Clerk and will include the following terms and conditions:

1. **Consideration:** \$7,500.00 fixed rent per month with adjustments after Lease Year 3 in accordance with the Consumer Price Index, along with \$.002 per clam sold (not landed) in excess of 20,000,000 clams sold in any one calendar year, along with payment in lieu of taxes at the rate of \$1,200.00 per month, along with various incentives provided to tenant by way of rent credits and offsets;
2. **Lessee:** Baymen's Protective Association, Inc;

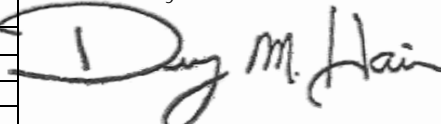
3. **Public Purpose:** Within the meaning of N.J.S.A. 40A:12-15(i), the promotion of the health and general welfare of the community through the depuration of clams which will result in a wholesome and safe product native to eastern Monmouth County, which will promote and allow for a marketable and safe product which will benefit the public by providing and enhancing employment opportunities for local fisherman as well as affording employment in the clam depuration facility, which will enhance the general economic base of the Borough and local community at large;
4. **Number of persons benefiting from the Public Purpose:** Approximately 60-80 directly, approximately 200-300 indirectly and the consumers who will benefit from the continued supply to market of an indigenous wholesome product;
5. **Term of Lease:** Initial Term of Ten (10) Years with options to renew for three (3) additional terms of five (5) years each. Maximum term of Lease is for a period of twenty-five (25) years should all of the options to extend the term of the Lease be exercised by Tenant and accepted by Landlord;
6. **Officer, Employee or Agency Responsible for Enforcement of the Conditions of the Lease:** Borough Administrator.

BE IT FURTHER ORDAINED that the Baymen’s Protective Association, Inc. shall annually submit a report to the Borough Administrator of the Borough of Highlands which sets forth the following: the use to which the leasehold was put during each year; the activities of the lessee undertaken in furtherance of the public purpose for which the leasehold was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the non-profit corporation pursuant to both State and Federal law.

This Ordinance shall take effect after final passage as provided by law.

| Introduction O-16-28 | MOVED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------------|-------|----------|-----|-----|---------|--------|
| BROULLON | | | X | | | |
| CARD | X | | X | | | |
| D'ARRIGO | | | X | | | |
| WELLS | | | X | | | |
| NOLAN | | X | X | | | |

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 07, 2016. WITNESS my hand this 8th day of December 2016.



Dwayne M. Harris, RMC
Municipal Clerk

Public Hearing and possible adoption will be on December 21, 2016.

| Adoption O-16-28 | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|---------------------|------------|----------|-----|-----|---------|--------|
| BROULLON | | X | X | | | |
| CARD | | | | | | X |
| D'ARRIGO | | | X | | | |
| WELLS | | | X | | | |
| NOLAN | X | | X | | | |

I, Dwayne M, Harris, Acting Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held December 21, 2016. WITNESS my hand this 23rd day of December, 2016.



Dwayne M. Harris, RMC
Acting Municipal Clerk

X

Frank Nolan
Mayor

December 27, 2016