

Mayor Nolan offered the following Ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

O-11-5

**AN ORDINANCE ADDING NEW CHAPTER 3-7C OF THE REVISED CODE OF THE
BOROUGH OF HIGHLANDS ENTITLED MUNICIPAL SERVICES FOR PRIVATE
COMMUNITIES**

New Chapter 3-7C Municipal Services for Private Communities

1. As used in this article, the following terms shall have the meanings indicated:

QUALIFIED PRIVATE COMMUNITY

Any residential condominium, cooperative, fee simple community, or horizontal property regime, the residents of which do not receive any tax abatement or tax exemption related to its construction, comprised of a community trust or other trust device, condominium association, homeowners' association, or council of co-owners, wherein the cost of maintaining roads and streets and providing essential services is paid for by a not-for-profit entity consisting exclusively of unit owners within the community. No apartment building or garden apartment complex owned by an individual or entity that receives monthly rental payments from tenants who occupy the premises shall be considered an association. No proprietary campground facility, as defined in N.J.S.A. 45:22A-49, shall be considered to be an association.

QUALIFIED STREET

A street or road located within a qualified private community and providing access to driveways or parking areas within that qualified private community; provided, however, that in no event shall areas used primarily as parking areas or parking lots be considered qualified streets.

QUALIFIED STREET-LIGHT POLE

Those poles providing street-lighting which are located on or near qualified streets and which provide lighting for qualified streets. Street-lighting poles providing lighting for areas primarily used as parking lots shall be excluded from the definition of "qualified street-light pole."

REIMBURSABLE SNOW/ICE REMOVAL COSTS

Cost incurred by the qualified private community for the removal of snow and ice from the roads and streets located on the qualified private community property, where the Borough of Highlands did not supply snow removal. Reimbursement shall not exceed the cost that would have been incurred by the Borough in providing snow/ice removal services directly.

A. The Borough of Highlands shall provide the following services within a qualified private community in the same fashion as it provides these services on public roads and streets:

(1) Streetlighting of qualified street-light poles.

(a) The Borough shall provide street-lighting to the extent of payment for the electricity required for the operation of such poles, but shall not be responsible for the installation or maintenance of lamps, standards, wiring or other equipment.

(b) For purposes of providing street-lighting services, any qualified private community, through its homeowners' association, shall transfer billing of qualified street-light poles from the qualified private community to the Borough, and the Borough shall assume liability for payment of lighting said poles from the date when the power company providing electric service revises its billing records.

(2) Snow and ice removal.

(a) The Borough shall provide the qualified private community with snow and ice removal services in lieu of paying reimbursement to the qualified private community for such service. If the Borough elects to terminate any such service after it has been provided, the qualified private community shall be given advance written notice. The Borough shall not be obligated to pay reimbursement to the qualified private community for any costs incurred by the qualified private community for any services while the same services are being provided by the Borough. If the Borough elects to provide any service, the qualified private community shall pay the cost of any insurance riders required by the Borough to enable Borough vehicles to operate on the qualified private community's private roads and streets, consistent with N.J.S.A. 40:67-23.4.

(b) The Borough may choose instead to provide annual reimbursement to any qualified private association for its reimbursable costs for snow and ice in the amount of 100% of the costs as detailed below:

(1) The Borough shall not be obligated to pay reimbursement to a qualified private community for any service for which the costs incurred by the qualified private community for which reimbursement is sought exceeds the cost that would have been incurred by the Borough in providing the particular service directly. This limitation shall be calculated and applied as follows:

[i] Following the close of each budget year, the Borough will determine the annual cost incurred by the Borough for snow and ice removal. Based upon those figures, the Borough will determine the annual cost for each such service in accordance with this chapter.

[ii] The annual Borough cost for snow and ice removal shall be divided by the total linear miles of all public streets owned and maintained by the Borough to produce the

annual unit cost for snow removal. The annual unit cost for snow and ice removal shall be multiplied by the total linear miles or roads within the qualified private community, to produce the annual reimbursement cost ceiling for snow and ice removal services.

(iii) Requests by the qualified private community for payment of reimbursement under this section shall be processed pursuant to the following procedure:

[1] The qualified private community shall submit a voucher signed by an authorized officer of the qualified private community's homeowners' association with each request for payment, using voucher forms to be provided by the Borough.

[2] The Borough will review the underlying documentation to determine whether the requested reimbursement is consistent with and authorized by this chapter. The Borough will disallow any excess amount or unauthorized portion of the reimbursement request.

[3] Vouchers shall be submitted on an annual basis following the end of the snow removal season for which reimbursement is requested, but in no event later than September 15. Each voucher shall be accompanied by copies of invoices, payment receipts and other appropriate documentation, which demonstrates to the satisfaction of the Borough that all costs constitute reimbursement costs and that the qualified private community has incurred all costs during the applicable reimbursement period. Vouchers shall not be processed for payment by the Borough if they do not conform with these requirements. In that event, the qualified private community will be given notice and the opportunity to provide additional requested documentation and/or otherwise cure any nonconformity with these submission requirements.

[4] After making such determination, the reimbursement amount (less any disallowed amount) for snow and ice removal will be reduced by the Borough if it exceeds the applicable reimbursement cost ceiling, as calculated pursuant to the foregoing provisions.

[5] Following formal approval of a reimbursement request, payment shall be issued in accordance with routine Borough procedures.

B. General Provisions; limits upon Borough's obligations; accounting by qualified private communities; required agreements.

(1) In accordance with N.J.S.A. 40:67-23.2 et seq., unless otherwise provided herein, the Borough shall not be obligated or required to operate any municipally owned or leased vehicles or other equipment, or to provide any of the services enumerated in this article, upon, along or in relation to any road or street in any qualified private community which either is not accepted for dedication to public use, or does not meet all municipal standards and specifications for such dedication, except for width.

(2) In all cases where the Borough reimburses a qualified private community in lieu of providing services directly under this article, the qualified private community shall provide an accounting of the use of the money paid over to it by the Borough, and for the refunding to the Borough of any payments in excess of the amounts actually expended or contractually committed by the qualified private community, during the accounting period in order to provide the services for which reimbursement is provided.

(3) Insurance requirements:

(a) The qualified private community is required by statute to pay the cost of any insurance riders or increased insurance costs incurred by the Borough, and the qualified private community shall pay such costs in order for the Borough to provide any snow and ice removal services.

(b) Any policy of insurance obtained by the Borough for these services shall provide, as a minimum, the following coverage amounts: \$1,000,000 liability coverage; \$500,000 property damage coverage.

(c) The cost of liability and property damage premiums for the amounts set forth above shall be apportioned among those qualified private communities electing to have the Borough provide services in the same proportion as the length of each electing qualified private community's qualified streets are to the total length of all the qualified streets in the electing qualified private communities.

(d) As the premiums for such coverage may be adjusted from time to time by the insurance carrier, so also shall the proportionate shares of the electing qualified private communities. Upon receipt of the premium notice, the Borough Administrator or authorized designee shall send notice to each electing qualified private community, by regular mail, advising of the amount due and the date payment is required. Failure to pay its share of the premiums in a timely manner shall subject the electing qualified private community to removal from the group of electing qualified private communities receiving services. In the event of removal, the removed qualified private community shall then be eligible for reimbursement in the manner set forth in this article.

(4) Agreement. In order to qualify for snow and ice removal services, reimbursement for snow and ice removal services or payment for qualified street lighting, the homeowners' association for the qualified homeowners' association must enter into an agreement with the Borough incorporating the terms and conditions of this article.

Seconded by Mr. Francy and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Connelly, Mr. Francy, Ms. Kane, Mayor Nolan

NAYES: None

ABSENT: Mr. O'Neil

ABSTAIN: None

DATE: March 16, 2011

Carolyn Cummins, Borough Clerk

Introduction: March 2, 2011

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P.H./Adoption: March 16, 2011

Publication: March 25, 2011, Two River Times

I hereby certify this to be a true copy of Ordinance O-11-5 adopted by the Governing Body of the Borough of Highlands at a meeting held on the 2nd day of March 16, 2011.

Borough Clerk/Deputy Clerk