

Mayor Nola offered the following Ordinance pas third, final reading and moved on its adoption and authorized its and authorized its publication according to law:

**Borough of Highlands
County of Monmouth
O-12-18**

An Ordinance amending Chapter I, “General,” and Chapter IV, “Licensing—General” to provide for certain penalties for violations of provisions Revised General Ordinances of the Borough of Highlands

Whereas, the Mayor and Council have determined that there is a need to specify for certain penalties for violations of sections of the Revised General Ordinances of the Borough of Highlands (“Borough Code”); and

Whereas, N.J.S.A. 40:49-5 authorizes the imposition of penalties for violations of ordinances.

Now, therefore, be it ORDAINED by the Mayor and Council of the Borough of Highlands as follows:

Section One

The Borough Code shall be supplemented with the addition of a section 1-5, “Penalties; General,” which shall read as follows:

1-5 PENALTIES; GENERAL

Except as hereinafter provided, whenever in this Code or in any other ordinance of the Borough or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the Borough any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or in such other Borough ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the Borough or of any rule, regulation or order promulgated pursuant to such Code or other Borough ordinance shall be punished by a fine not exceeding two thousand (\$2,000.00) dollars, or by imprisonment for a period not exceeding ninety days; or a period of community service not exceeding ninety days; or by both such fine and imprisonment or community service.

Any person who is convicted of violating this Code or any other ordinance of the Borough or any other rule, regulation or order promulgated pursuant to this Code or other Borough ordinance within one year of the date of a previous violation of the same provision, and who was fined for that previous violation shall be

sentenced by the court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the provision, but shall be calculated separately from the fine imposed by the violation of the provision.

Whenever any provision of the New Jersey revised Statutes limits the authority of the Borough to punish the violation of any particular provision of this Code or other Borough ordinance, rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation of such particular provision of this Code or other Borough ordinance, rule, regulation or order shall be punished by the imposition of not more than the maximum fine, imprisonment or community service so authorized or by both such fine or imprisonment.

The maximum penalty stated in the general penalty clause of this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or a particular violation.

The Mayor and Council may prescribe that, for the violation of any particular Code provision or ordinance, at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding one hundred dollars. Each day any violation of this Code or any other Borough ordinance, rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.

Any person convicted of violating this Code or any other ordinance of the Borough or any other rule, regulation or order promulgated pursuant to this Code or other Borough ordinance, and who is in default of the payment of any fine imposed for the violation, may, in the court's discretion, be imprisoned for a term not exceeding ninety days or be required to perform community service for a period not exceeding ninety days. Whenever any fine is imposed upon any corporation, such fine and any costs and charges incident thereof may be collected in an action of debt or in such other manner as may be provided by law.

Section Two

Section 4-1, "General Provisions," shall be amended by the addition of a section 4-1.15, "Penalties; General," which shall read as follows:

4-1.15 Penalties; General

Except as otherwise provided within this Chapter, whenever in this Chapter any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this Chapter the doing of any act is required or the

failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision shall be punished by a fine of at least one hundred dollars (\$100.00) and not exceeding two thousand (\$2,000.00) dollars, or by imprisonment for a period not exceeding ninety days; or a period of community service not exceeding ninety days; or by both such fine and imprisonment or community service. Each day any violation of this Code or any other Borough ordinance, rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense.

Any person who is convicted of violating this Chapter within one year of the date of a previous violation of the same provision, and who was fined for that previous violation shall be sentenced by the court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the provision, but shall be calculated separately from the fine imposed by the violation of the provision.

Whenever any provision of the New Jersey revised Statutes limits the authority of the Borough to punish the violation of any particular provision of this Chapter to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation of such particular provision of this Chapter shall be punished by the imposition of not more than the maximum fine, imprisonment or community service so authorized or by both such fine or imprisonment.

Any person convicted of violating this Chapter, and who is in default of the payment of any fine imposed for the violation, may, in the court's discretion, be imprisoned for a term not exceeding ninety days or be required to perform community service for a period not exceeding ninety days. Whenever any fine is imposed upon any corporation, such fine and any costs and charges incident thereof may be collected in an action of debt or in such other manner as may be provided by law.

Section Three

Section 4-9, "Mercantile Licenses," shall be amended by the addition of a section 4-9.8, "Penalties," which shall read as follows:

4-9.8 Penalties

Any person, corporation or other entity which engages in any activity outlined in Section 4-9.1 requiring a mercantile license who conducts such activity without a mercantile license shall be subject to a fine not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2000.00). Each day any violation of this Code or any other Borough ordinance, rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense.

Any person who is convicted of violating this Section within one year of the date of a previous violation, and who was fined for that previous violation shall be sentenced by the court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the provision, but shall be calculated separately from the fine imposed by the violation of the provision.

Section Four. 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 Five. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section Six. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

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

ROL CALL:

AYES: Mr. Redmond, Mr. O'Neil, Mr. Francy, Ms. Kane, Mayor Nolan
NAYES: None
ABSENT: None
ABSTAIN: None

DATE: September 15, 2012

Carolyn Cummins, Borough Clerk

Introduction: August 15, 2012
Publication: August 24, 2012, Two River Times
P.H./Adoption: September 5, 2012
Publication: September 14, 2012, Two River Times

I hereby certify this to be a true copy of Ordinance O-12-18 adopted by the Borough of Highlands Mayor & Council at a meeting held on September 5, 2012.

Borough Clerk/Deputy Clerk