

**BOROUGH OF HIGHLANDS
MAYOR & COUNCIL
REGULAR MEETING
FEBRUARY 7, 2007**

Mayor O'Neil called the meeting to order at 7:18 P.M.

Mrs. Flannery made the following statement: As per requirement of P.L. 1975, Chapter 231, notice is hereby given that this is a Regular Meeting of the Mayor and Council of the Borough of Highlands and all requirements have been met. Notice has been transmitted to the Courier, the Asbury Park Press and the Two River Rimes. Notice has been posted on the public bulletin board.

ROLL CALL:

Present: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

Absent: None

Also Present: Nina Light Flannery, Borough Clerk
Stephen Pfeffer, CFO
Dominick Manco, Esq., Borough Attorney

EXECUTIVE SESSION RESOLUTION:

Mrs. Flannery read the following Resolution for approval:

Mayor O'Neil offered the following Resolution and moved its adoption:

**RESOLUTION
EXECUTIVE SESSION**

BE IT RESOLVED that the following portion of this meeting dealing with the following generally described matters shall not be open to the public:

- 1. Personnel: P. Murphy; Special Counsel; Position in Borough Hall;
Fire Department Request Counsel Assistance**
- 2. Litigation: McCauley, Debbie Matter**
- 3. Real Estate: New Borough Hall**

BE IT FURTHER RESOLVED that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date when the need for privacy no longer exists; and

BE IT FURTHER RESOLVED that no portion of this meeting shall be electronically recorded unless otherwise stated; and

BE IT FURTHER RESOLVED that the private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Act:

- 5. Deals with purchase, lease or acquisition of real property with public funds.**
- 9. Related to pending or anticipated litigation or contract negotiations in which the public body is or may be a party.**
- 10. Falls within the attorney-client privilege and confidentiality is required.**
- 11. Deals with personnel matters of public employees and employee has not requested that the matter be made public.**

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

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ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

NAYES: None

ABSENT: None

ABSTAIN: None

The Governing Body then entered into Executive Session.

Mayor O'Neil called the Regular Meeting back to order at 8:24 P.M.

Mayor O'Neil asked all to stand for the Pledge of Allegiance.

ROLL CALL:

Present: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

Absent: None

Also Present: Nina Light Flannery, Borough Clerk
Stephen Pfeffer, CFO
Dominick Manco, Esq., Borough Attorney

**Presentation to Senior Fire Volunteers:
Andrew Daino & Family of John "Jack" Card**

Mayor O'Neil presented plaques to Mr. Daino and the family of John Card.

Resolutions:

Mrs. Flannery read the titles of the following Resolutions for approval:

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**INSERT
R-07-41
CAPITAL BUDGET AMENDMENT
HERE**

HIGHLANDSNJ.COM

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Mayor O'Neil offered the following Resolution and moved its adoption:

**R-07-36
RESOLUTION ACCEPTING AUDIT
BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

WHEREAS, N.J.S.A. 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 ended June 30, 2006 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S. 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 requiring 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 have reviewed, at a minimum, the sections of the annual audit entitled:

General Comments

Recommendations

Auditors' Opinions

and

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments

Recommendations

Auditors' Opinions

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 (45) days after 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:

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“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 Director (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 (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Borough of Highlands, 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.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O’Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mayor O’Neil offered the following Resolution and moved its adoption:

**R-07-37
RESOLUTION AUTHORIZING DISPOSAL OF
OFFICE EQUIPMENT**

WHEREAS, the Cash Register Model 3001, Serial # 21-21159244 and Validator Model K420, Tracer # 21-0147 assigned to the Tax Collector’s Office; and

WHEREAS, the Cash Register Model 3001, Serial # 21-21165905 and Validator Model K420, Tracer #21-01197 assigned to the Sewer Collection Department have both been replaced by other equipment; and

WHEREAS, because of the age and condition of the equipment it is determined that they are of little or no value;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that said equipment may be disposed of.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O’Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mayor O’Neil offered the following Resolution and moved its adoption:

**R-07-38
RESOLUTION – CHANGE ORDER #4
M & R MECHANICAL CONTRACTORS, INC.
INCREASE OF \$5,078.98
CONSTRUCTION OF A NEW FIREHOUSE**

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WHEREAS, a contract was awarded for M & R Mechanical Contractors, Inc as follows:

| | | |
|----------|--------------------|----------------|
| R-04-179 | September 15, 2004 | \$1,665,000.00 |
| R-06-34 | February 1, 2006 | \$ 60,306.16 |
| R-06-140 | August 16, 2006 | \$ 8,039.41 |
| R-07-23 | January 17, 2007 | \$ 19,187.06 |

WHEREAS, change order # 4 dated January 10, 2007 prepared by George Cooper Rudolph, professional architectures, sets forth reasons for said change order,

Certification of Funds

I hereby certify that funds are available from Bond Ordinance 0-98-11.

Stephen Pfeffer, CFO

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Highlands that change order #4 increasing the original contract amount by \$5,078.98 is hereby authorized for Construction of a New Firehouse. The contract is hereby amended to \$1,757,611.61.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

NAYES: None

ABSENT: None

ABSTAIN: None

Mayor O'Neil offered the following Resolution and moved on its adoption:

R-07-39

**RESOLUTION AMENDING RESOLUTIONS R-05-194
EXTENDING PROFESSIONAL ENGINEERING SERVICES FOR RENOVATIONS TO
COMMUNITY CENTER**

WHEREAS, there exists the need for Professional Engineering Services to be provided for the Renovations to the Community Center; and

WHEREAS, such Professional Engineering Services can only be provided by licensed professionals and T & M Associates, 11 Tindall Road, Middletown, NJ 07748 is so recognized; and

WHEREAS, a contract was awarded on December 7, 2005 for an amount not to exceed \$74,200.00 for the Professional Engineering Services for the Renovations to the Community Center; and

WHEREAS, the term of the contract has expired and the Governing Body desires to extend term of the contract for an additional year until December 7, 2007; and

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WHEREAS, T&M Associates has completed and submitted a Business Entity Disclosure Certification which certifies that T&M Associates has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit T&M Associates from making any reportable contributions through the term of the contract, and

WHEREAS, the determination of value has been placed on file with this resolution with the Borough Clerk; and

WHEREAS, T & M Associates has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands of the following:

1. T & M Associates' contract for professional engineering services is hereby extended for an additional year until December 7, 2007 with no change in the amount not to exceed of \$74,200.00.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mayor O'Neil offered the following Resolution and moved its adoption:

**R-07-40
RESOLUTION AMENDING PARKING REGULATIONS**

WHEREAS, the Borough of Highlands has been requested to amend parking regulations along the westerly side of Bay Avenue, in the vicinity of the New Life Christian Church, during services, funerals and weddings, as follows:

Two parking spaces, on the westerly side, running along the northernmost (40') foot frontage of Lot 4 in Block 46, as shown on the Borough of Highlands Tax Map, and further described as beginning at a point one hundred and fifty feet south of pole # BT 90067HB, and ending at a point one hundred ninety feet south of pole # BT 90067HB.

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Said parking spaces shall be subject to 15 minute time restrictions, on Sundays from 8am to 1 pm, and on Saturdays from 2pm-4pm

WHEREAS, this request has been reviewed by the Chief of Police of the Borough of Highlands, and other appropriate Borough personnel, who have presented this request to the governing body with a recommendation that appropriate steps be taken to further investigate, and implement same; and

WHEREAS, the roadway in question is under the jurisdiction of the County of Monmouth, and the traffic regulation proposed must be promulgated by the Monmouth County Board of Chosen Freeholders;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highlands, in the County of Monmouth, and State of New Jersey, that the Board of Chosen Freeholders of the County of Monmouth, in the State of New Jersey is requested to take all reasonable an necessary steps to promulgate the aforesaid parking restrictions, in accordance with applicable state law.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mayor O'Neil offered the following Payment of Bills and moved on its approval for payment:

**RECAP OF PAYMENT OF BILLS
02/07/07**

| | | |
|----------------------------------|------------|---------------|
| CURRENT: | | \$ 541,954.63 |
| Payroll | (01/30/07) | \$ 121,220.10 |
| Manual Checks | | \$ 98,971.51 |
| Voided Checks | | \$ |
| SEWER ACCOUNT: | | \$ 135,134.25 |
| Payroll | (01/30/07) | \$ 5,953.88 |
| Manual Checks | | \$ 50,128.50 |
| Voided Checks | | \$ |
| CAPITAL/GENERAL | | \$ 202,730.82 |
| CAPITAL-MANUAL CHECKS | | \$ 96,879.13 |
| WATER/CAPITAL | | \$ 3,993.86 |
| TRUST FUND | | \$ 5,399.25 |
| Payroll | (01/30/07) | \$ 36,391.68 |
| Manual Checks | | \$ |
| Voided Checks | | \$ |
| UNEMPLOYMENT ACCT-MANUALS | | \$ |
| DOG FUND | | \$ |
| GRANT FUND | | \$ |

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| | | |
|--------------------------|-----------|---------------|
| Payroll (01/30/07) | \$ | |
| Manual Checks | \$ | |
| Voided Checks | \$ | |
| DEVELOPER'S TRUST | \$ | 213.75 |
| Manual Checks | \$ | |
| Voided Checks | \$ | |

**THE COMPLETE PAYMENT OF BILLS IS AVAILABLE IN
THE CLERK'S OFFICE FOR ANYONE THAT WISHES TO REVIEW THE LIST.**

**BOROUGH OF HIGHLANDS
Supplemental Bill List for February 7, 2007**

| | | |
|-----------------------------------|------------------|---------------|
| M & R Mechanical | Firehouse #21 | \$ 154,647.47 |
| AB Designs | Community Center | \$ 24,108.00 |
| Star of the Sea – Bay Sewer Break | | \$ 35,848.40 |

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Ordinances: Introduction and Setting of a Public Hearing Date

O-07-02

Mrs. Flannery read the title of the following Ordinance for introduction and setting of a public hearing date.

The Governing Body briefly discussed Ordinance O-07-02.

Mayor O'Neil offered the following ordinance pass introduction, that a public hearing date be set for Wednesday, March 7, 2007 at 8:00 P.M., and publication according to law:

O- 07- 02

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 OF THE
REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED
“RECEPTACLE REQUIREMENTS”**

[additions shown in underline, deletions shown by ~~strikeout~~]

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WHEREAS, it has been determined by the Governing Body of the Borough of Highlands that in order to better serve and to advance the interests of the health, safety and welfare of the general public, that procedures for the collection of bulk waste be amended so as to promote efficiency, safety, and the public health and welfare;

THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Highlands that Chapter 3-7, of the Revised General Ordinances of the Borough of Highlands, and more particularly Sections 3-7.6 and 3-7A thereof, be amended and supplemented in following part only:

§3-7.6 Receptacle requirements

no change
no change
no change

[new section] No person shall park or leave unattended any waste or refuse container, commonly known as a roll-off dumpster, roll-off container, or mobile storage unit (including but not limited to “pods”) on or along any street, highway or public property in the Borough without having first obtained a permit from the Borough Highlands, subject to Police Department approval. Said permit shall be valid for a period of seven (7) days after issuance and may be renewed by application to the Police Department for additional seven (7) day period, if necessary, at the discretion of the Police Chief, or his designee. The cost for each initial or renewal permit shall be \$20.

Notwithstanding anything to the contrary set forth above, no permit shall be granted for use on a public street or public property, if the applicant has sufficient space on his/her/their premises to accommodate same.

§3-7A.2 Collection of Bulk Garbage

a. no change

subsections 1 – 6, no change

7. No person shall park or leave unattended any waste or refuse container, commonly known as a roll-off dumpster, roll-off container, or mobile storage unit (including but not limited to “pods”), on or along any street, highway or public property in the Borough without having first obtained a permit from the Borough Highlands, subject to Police Department approval. Said permit shall be valid for a period of seven (7) days after issuance and may be renewed by application to the Police Department for additional seven (7) day period, if necessary, at the discretion of the Police Chief, or his designee. The cost for each initial or renewal permit shall be \$20.

Notwithstanding anything to the contrary set forth above, no permit shall be granted for use on a public street or public property, if the applicant has sufficient space on his/her/their premises to accommodate same.

Seconded by Mr. Nolan and introduced on the following roll call vote:

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ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski,
Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Ordinance O-07-03

Mrs. Flannery read the title of the following Ordinance for introduction and setting of a public hearing date.

Mr. Urbanski stepped down from the table on this matter.

Mayor O'Neil offered the following Ordinance pass introduction and that a public hearing date be set for February 21, 2007 at 8:00 P.M. and authorized its publication

**ORDINANCE NO.
O- 07 -03**

**AN ORDINANCE OF THE BOROUGH OF HIGHLANDS, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY AMENDING CHAPTER 21 (ZONING AND LAND USE
REGULATIONS) OF THE BOROUGH OF HIGHLANDS CODE TO IMPLEMENT THE
RECOMMENDATIONS OF THE 2004 MASTER PLAN**

WHEREAS the Highlands Borough Planning Board adopted the Highlands Borough Master Plan by resolution on November 10, 2004; and,

WHEREAS, the Master Plan contained a series of recommendations concerning revisions to Chapter 21 Zoning and Land Use Regulations and the Highlands Borough Zoning Map;

WHEREAS, the Governing Body of the Borough of Highlands, Monmouth County, New Jersey desires to implement said Planning Board recommendations;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Highlands that Chapter 21 (Zoning and Land Use Regulations) of "The Revised General Ordinances of the Highlands of Highlands, 1975" is amended and supplemented as follows:

SECTION 1

Chapter 21 (Zoning and Land Use Regulations) is hereby amended and supplemented to delete the current Table of Contents in its entirety and insert the following in its place and stead:

**"Chapter 21"
ZONING AND LAND USE REGULATIONS
BOROUGH OF HIGHLANDS
MONMOUTH COUNTY, NEW JERSEY**

PART 1 GENERAL PROVISIONS

ARTICLE I TITLE AND PURPOSE

21-1 Short Title
21-2 Purpose
21-3 Repealer
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21-5 Effective Date
21-6 Interpretation

ARTICLE II DEFINITIONS

21-7 General interpretation and usage
21-8 Definitions

ARTICLE III ADMINISTRATIVE PROCEDURES

21-9 Adoption of rules and regulations
21-10 Meetings of the Planning Board and Board of Adjustment
21-11 Hearings; filing of ordinances
21-12 Scope of authority
21-13 Interruption of running of period of approval
21-14 Conditional approvals
21-15 Separation of Applications
21-16 Application fees

PART 2 ESTABLISHMENT OF BOARDS

ARTICLE IV Planning Board

21-17 Planning Board continued
21-18 Alternate members
21-19 Terms
21-20 Vacancies, removal
21-21 Conflicts of interest
21-22 Lack of quorum
21-23 Voting
21-24 Organization
21-25 Planning Board Attorney
21-26 Experts and staff
21-27 Powers
21-28 Referral powers
21-29 Time limits
21-30 Simultaneous review
21-31 Citizen's Advisory Committee
21-32 Referral to Environmental Commission
21-33 Review of capital projects

ARTICLE V ZONING BOARD OF ADJUSTMENT

21-34 Board of Adjustment continued
21-35 Alternate members
22-36 Terms
21-37 Vacancies, removal
21-38 Conflicts of interest
21-39 Lack of quorum
21-40 Voting
21-41 Organization
21-42 Board of Adjustment Attorney
21-43 Experts and staff
21-44 Powers
21-45 Annual Report on Variances Heard by Zoning Board
21-46 Appeals and applications to the Board of Adjustment
21-47 Time limit for decision
21-48 Modification
21-49 Stay of proceedings by appeal; exception
21-50 County Planning Board review
21-51 Referral to other agencies
21-52 Vote necessary for decision
21-53 Expiration of variance
21-54 Appeals

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PART 3 SUBDIVISION AND SITE PLAN REVIEW

ARTICLE VI APPLICATION PROCEDURE

- 21-55 Filing Procedure
- 21-56 Time for decision
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ARTICLE VIII PLAT AND PLAN DETAILS

- 21-58 Plat and plan details
- 21-59 On-tract and on-site improvements
- 21-60 Installation of improvements; guaranty agreement
- 21-61 Agreement
- 21-62 Maintenance guaranty

ARTICLE IX Reserved

ARTICLE X Off-tract Improvements

- 21-63 Off-tract improvements

ARTICLE XI Design Standards

- 21-64 General Standards
- 21-65 Design Specifications

ARTICLE XII Exceptions

- 21-66 Granting of Exceptions

ARTICLE XIII Penalties

- 21-67 Penalty for selling prior to final approval
- 21-68 Civil remedies

PART 4 ZONING

ARTICLE XIV Establishment of Zoning Districts

- 21-69 Zoning districts
- 21-70 Zoning map and Schedule
- 21-71 Conformance Required
- 21-72 Applicability
- 21-73 Effect on existing development
- 21-74 Prohibited Uses
- 21-75 Right of way dedications
- 21-76 Subdivisions of land
- 21-77 Principal buildings and structures
- 21-78 Accessory structures and uses
- 21-79 Yards
- 21-80 Corner lots
- 21-81 Outdoor storage
- 21-82 Residential Uses and Districts
- 21-83 Business Uses and Districts
- 21-84 Waterfront Uses and Districts

ARTICLE XV Residential Zone Districts

- 21-85 R-1 District- Single family Residence
- 21-86 R-2 Single Family Residence
- 21-87 PB Professional Business District
- 21-88 MF Multi-family Residence
- 21-89 MH Mobile Home Residence

ARTICLE XVI Reserved

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ARTICLE XVII Business and Waterfront Zone Districts

21-90 B-1 Neighborhood Business
21-91 B-2 Central Business District
21-92 B-3 Resort Business
21-92.01 Highway Oriented Business
21-93 WT-R Waterfront Transition - Residential
21-94 WT-C Waterfront Transitional – Commercial
21-94.01 WT-C/T Waterfront Transitional- Commercial/Townhouse
21-95 WC-1 Waterfront Commercial
21-96 WC-2 Waterfront Commercial
21-96.01 Mixed Use

ARTICLE XVIII Reserved

ARTICLE XIX Conditional Uses

21-97 Conditional Uses

ARTICLE XX Nonconforming Lots, Buildings and Lots

21-98 Non-Conforming Uses, Structures and Lots

ARTICLE XXI Enforcement

21-99 Enforcement
21-100 Certificates of Occupancy

PART 5 SIGNS

ARTICLE XXII Signs
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21-102 General Standards
21-103 Specific standards by zone district
21-104 Sign permits
21-106 Exemptions

PART 6 FEE SCHEDULE

ARTICLE XXIII Fees
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PART 7 FLOOD DAMAGE PREVENTION

ARTICLE XXIV Flood Damage Prevention
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21-116 Interpretation
21-117 Warning and Disclaimer of Liability
21-118 Development Permit
21-119 Designation of Local Administrator
21-120 Duties of Local administrator
21-121 Appeals and Variance Procedures
21-122 Exception for Below Ground Pools
21-123 General Construction Standards
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21-126 Effect on Time Limits in Other Legislation
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SECTION 2

Section 21- 8. (Definitions) is hereby amended and supplemented to add and modify the following definitions (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

“ASSISTED LIVING means a facility which is licensed and meets the provisions in the publication entitled "Standards for Licensure of Assisted Living Residences and Comprehensive Personal Care Homes' by the NJ Department of Health and Senior Services and provides apartment style housing and congregate dining with supportive services to adult persons unrelated to the proprietor. In determining maximum building density for zoning compliance, assisted living facilities shall be governed by a floor area ratio (FAR) and not dwelling unit density.”

“BUILDING HEIGHT – The vertical distance as measured from the grade plane to the average height of the highest roof surface. In the case of sloped roofs, the average height is the midpoint between the **lowest roof eave of the top floor** and the roof ridge. In the case of a building hat has multiple roof levels, the highest roof levels must be used to determine the building height. Chimney, elevator equipment and mechanical utility equipment and any associated screening or enclosures may exceed the permitted ‘building height’ by up to ten (10) feet, or up to ten percent (10%) above the permitted building height, whichever is less. **(Please refer to illustration, Appendix B.)**”

“COMMUNITY RESIDENCE FOR THE DEVELOPMENTALLY DISABLED – Any community residential facility licensed pursuant to P.L. 1977, c. 448 (C. 30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the “Health Care Facilities Planning Act” (P.L. 1971, c. 136 (C.26:2H-1 et seq.)). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. As used in this chapter, ‘developmentally disabled person’ means a person who is developmentally disabled as defined in section 2 of P.L. 1977, c.448 (C. 30:11B-2), and ‘mentally ill person’ means a person who is afflicted with a mental illness as defined in R.S. 30:4-23, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.”

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“COMMUNITY SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE- Any shelter approved for a purchase of a service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L.1979, c. 337 (C. 30:14-1 et seq.), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance to protect their physical and psychological welfare.”

“COMMUNITY RESIDENCES FOR PERSONS WITH HEAD INJURIES- Any community residential facility licensed pursuant to P.L. 1977, c. 448 (c. 30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such residences shall not be considered a health care facility within the meaning of the “Health Care Facilities Planning Act” (P.L. 1971, c. 136; C.26:2H-1 et seq.).”

“PERSON WITH HEAD INJURY - A person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of mental, cognitive, behavioral, social or physical functioning which causes partial or total disability.”

“COMMUNITY RESIDENCE FOR THE TERMINALLY ILL – Any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services, under the supervision as required, to not more than 15 terminally ill persons.”

“CONTINUING CARE RETIREMENT COMMUNITY (CCRC) An age-restricted development regulated in accordance with the rules of the New Jersey Department of Community Affairs pursuant to N.J.A.C. 5:19-1.1 et seq. that provides a continuum of accommodations and care, from independent living to long-term bed care, and enters into contracts to provide lifelong care in exchange for the payment of monthly fees and an entrance fee in excess of one year of monthly fees. This type of development is also referred to as a "life-care center.”

“FAMILY DAY CARE HOME – a private residence of a family day care provider, which is registered as a family day care home pursuant to the

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“Family Day care Provider Registration Act PL 1987 c. 27 (C. 30:5B-16 et seq.)”

“LONG-TERM CARE FACILITY An institution or a distinct part of an institution that is licensed or approved by the New Jersey Department of Health pursuant to N.J.A.C. 8:33-1 et seq. to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the owner or operator or its members by marriage, blood or adoption. These facilities are also referred to as nursing homes, extended care centers and skilled nursing facilities.”

“RESIDENTIAL HEALTH CARE FACILITY (RHCF) Residences licensed by the New Jersey Department of Health pursuant to N.J.A.C. 5:70-1 et seq. usually occupied by the frail elderly that provide rooms, meals, personal care and supervised health care to four or more persons who are unrelated to the owner or administrator. Residents of RHCF's do not require skilled nursing care. “

“Sign, roof- A sign that is mounted on the roof of a building [or that projects from the roof edge or the top of a roof embankment wall (parapet)], **the height of which does not exceed the top ridge line.**”

SECTION 3

Section 21-11 (Hearings; filing of ordinances) is hereby amended and supplemented to add modify paragraph c. as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

“c. Upon the written request of an applicant, the Tax Assessor or his designee shall within seven days, make and certify a list from said tax duplicates of names and addressee of owners to whom the applicant is required to give notice pursuant to Section 1b. of this section. The applicant shall be entitled to rely upon the information contained in such list, **provided the date of the list is no greater than ninety (90) days prior to the date of the public hearing,** and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed twenty-five cents (\$0.25) per name, or ten dollars (\$10.00), whichever is greater, may be charged for such list.

SECTION 4

Section 21-57. (Review Procedures) Subsection D. 1. shall be modified as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

:

“ 1. If the Board finds that the application is in substantial compliance with the provisions of this chapter, it shall schedule a hearing on the application following the procedure in 21-[10] **11** “

SECTION 5

Section 21-57. (Review Procedures) Subsection D. 1. shall be modified to revise the reference to paragraph D.4 to D-5.

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SECTION 6

Section 21-57. (Review Procedures) Subsection E. First Paragraph shall be modified to revise the reference "Section 21-56.D" ("...within the period prescribed in 21-56.D and may be...") to 21-57. D.

SECTION 7

Section 21-57 (Review Procedures) E.1 shall be modified to revise the reference "Section 21-10" ("...following the procedure in 21-1-." to 21-11.

SECTION 8

Section 21-57. (Review Procedures) E.2.a. shall be modified to revise the reference "Subsection C-3a" (...and all other rights conferred upon the developer pursuant to Subsection C-3a...) to paragraph D.4.a.

SECTION 9

Section 21-75 (Review Procedures) E. shall be amended and supplemented to insert the following new paragraph:
"E. 3. Reserved."

SECTION 10

Section 21-75 (Review Procedures) E.6 shall be modified to revise the reference "Subsection E-5" (...within the time or extended time required by Subsection E-5") to Paragraph E-4.

SECTION 11

Section 21-58.F.4 is hereby amended and supplemented to modify this subsection as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus])

:

"4. The foregoing provisions shall in no way be construed as exempting the applicant from filing the require fees or the required application forms as provided in [Article] **this Chapter.**"

SECTION 12

Section 21-78 (Accessory structures). A.7. (B). is hereby amended and supplemented to modify paragraph (b) as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

"(b) No roof mounted antenna of any kind shall be located on any part of the roof facing the front yard of the dwelling or apartment building or exceed the height provisions of **paragraph 4 above** [Section 21-6.11 of the Highlands Borough Land Development Ordinance]."

SECTION 13

Section 21-59. (On-tract and on-site improvements) is hereby amended and supplemented to delete subsection A.1 (Streets and pavements) in its entirety and insert the following in its place and stead:

"1. Streets and pavements.

a. Non-residential development. The developer shall design and construct streets and pavements meeting the minimum specifications as set forth in this chapter or such other specifications as may be required by the Borough or Board Engineer, as applicable, where circumstances so require.

b. Streets and parking lots in all residential developments shall be designed and constructed in accordance with Subchapter 4 (Streets and Parking) of N.J.S.A. 5:21 (Residential Site Improvement Standards), as amended."

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SECTION 14

Section 21-59. (On-tract and on-site improvements) is hereby amended and supplemented to delete subsection A.2 (Curbs and sidewalks) in its entirety and insert the following in its place and stead:

“2. Curbs and sidewalks.

Non-residential development. The developer shall construct curbs and sidewalks on both sides of all-existing streets, avenues, highways and public lanes and as required within the project site.

Residential development. Curbs and sidewalks in all residential developments shall be designed and constructed in accordance with Subchapter 4 (Streets and Parking) of N.J.S.A. 5:21 (Residential Site Improvement Standards), as amended.”

SECTION 15

Section 21-59. (On-tract and on-site improvements) is hereby amended and supplemented to delete subsection A.3. (Storm drains and culverts) in its entirety and insert the following in its place and stead:

“3. Stormwater Management.

a. Non-residential development. All streets shall be provided with sufficient catch basins, storms sewers, culverts, water detention basins and other appurtenances for the proper drainage of the area, with respect to existing and future conditions. All such facilities shall be constructed in accordance with this chapter or such other accepted engineering design practices as may be required by the Borough or Board Engineer, as applicable, where special circumstances so require.

b. Residential development and all developments regulated by the Municipal Stormwater Regulations (N.J.A.C. 7:8). Stormwater management facilities in all residential developments shall be designed and constructed in accordance with Subchapter 7 (Stormwater Management) of N.J.S.A. 5:21 (Residential Site Improvement Standards), as amended.”

SECTION 16

Section 21-59. (On-tract and on-site improvements) is hereby amended and supplemented to delete subsection A.9 (Sanitary sewers) in its entirety and insert the following in its place and stead:

“9. Sanitary sewers.

a. Non-residential development.

Where a public sanitary sewer system is reasonably accessible and capacity available, each lot within a subdivision area shall be provided with sewage disposal facilities by the required extension of sewer mains and connections thereon, the costs thereof to be borne by the developer. All such installation of sewer mains and connections shall be constructed in accordance with the applicable specifications and requirements of the Borough.

b. Where a public sanitary sewer system is not reasonably accessible, the subdivider may be required to install sewer lines and a sanitary sewer disposal plant at its own cost and expense and in accordance with applicable specifications and requirements of the Borough, and all such installations shall be subject to the approval of the Board of Health, the State Department of Environmental Protection and the Borough Engineer.

c. Residential development. Each lot within a subdivision or dwelling unit shall be provided with sewage disposal facilities by the required extension of sewer mains and connections thereon, the cost to be borne by the developer. All such installation of sewer mains and connections shall be constructed in the case of non-residential development in accordance with the applicable specifications of the Borough. In the case of residential development, all sanitary sewer construction shall be designed and constructed in accordance with Subchapter 6 (Sanitary Sewers) of N.J.S.A. 5:21 (Residential Site Improvement Standards), as amended.”

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SECTION 17

Section 21-59. (On-tract and on-site improvements) is hereby amended and supplemented to delete subsection A.10. (Water supply) in its entirety and insert the following in its place and stead:

“10. Water supply.

- a. Non-residential development. All developments shall be provided with water supplied by the public water supply. All facilities for said system shall be installed pursuant to and in accordance with the requirements of the appropriate water supply authority.
- b. Residential development. Water supply facilities in all residential developments shall be designed and constructed in accordance with Subchapter 7 (Water Supply) of N.J.S.A. 5:21 (Residential Site Improvement Standards), as amended.”

SECTION 18

Section 21-59. (On-tract and on-site improvements) is hereby amended and supplemented to insert the following paragraph as the first paragraph of subsection V. (Stormwater drainage):

“V. Stormwater drainage

Stormwater management facilities in all residential developments and all developments required by the Municipal Stormwater Regulations (N.J.A.C. 7:8) shall be designed and constructed in accordance with Subchapter 7 (Stormwater Management) of N.J.S.A. 5:21 (Residential Site Improvement Standards), as amended.”

SECTION 19

Section 21-65. (Design Standards) Paragraph N. is hereby amended and supplemented to delete subsection 4.a. and insert the following (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

“All parking areas shall be paved, or constructed in accordance with CAFRA regulations with gravel or porous pavers, **subject to the review and approval of the Borough or Board Engineer**; shall be suitably drained and maintained in good condition; and all spaces and directional instructions shall be clearly marked and maintained so as to be clearly visible. **Parking spaces shall be delineated by a treated wood guide rail. Such wood rail shall be constructed of treated timbers, a minimum of a 30 inches above grade and consist of vertical and horizontal members. The provision of improvements to delineate the parking spaces shall be at the discretion of the Planning Board, upon the advice of the Board Engineer. In cases when a stone parking area is permitted, a suitable paved area and driveway apron, in the opinion of the Borough or Board Engineer, shall be provided to retain stone within the parking area.**”

SECTION 20

Section 21-65.N. is hereby amended and supplemented to add new subsection 4. h.

“4. h. Parking Structures.

The location of any parking structures, if allowed, shall not be within four hundred (400) feet of the waterfront, as defined by the bulkhead or mean high water line. The architectural design of the façade of a parking structure, if permitted, shall incorporate features to add visual interest and improve the overall appearance of the structure as viewed from the street. Such features may include articulated parapet walls, ornamental projections, varied planter widths and similar items. The structure should be compatible with the building(s) served and be compatible in appearance, size, and bulk with the surrounding structures. “

SECTION 21

Section 21-69 (Zoning Districts) shall be amended and supplemented to delete the section in its entirety and insert the following in its place and stead:

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“For the purposes of this chapter, the Borough of Highlands is hereby divided into the nineteen (19) zone districts known as:

R-1.01 Single Family Residential
R1.02 Single Family Residential
R1.03 Single Family Residential
R-2.01 Single Family Residential
R-2.02 Single Family Residential
R-2.03 Single Family Residential
MF Multifamily Residential
PB Professional Business
MH Mobile Home
B-1 Neighborhood Business District
B-2 Central Business District
B Business District
WT-R Waterfront Transition-Residential
WT-C Waterfront Transition- Commercial
WT-C/T Waterfront Transition-Commercial/Townhouse
WC-1 Waterfront Commercial
WC-2 Waterfront Commercial
MXD Mixed Use District
HO Highway Oriented District”

SECTION 22

Section 21-70 (Zoning Map and Schedule) is hereby amended to delete paragraph A. in its entirety and insert the following in its place and stead:

“A. The boundaries of the zone district are hereby established as shown on the map entitled February 2007, which map accompanies and is hereby declared to be part of this chapter.”

SECTION 23

Section 21-82 (Residential Uses and Districts) is hereby amended and supplemented to add subsection 4 as follows:

“4. Family day care homes, as defined in 40:55D-66.5b., shall be permitted in all residential districts in accordance with the provisions of 40:55D –66.5.

5. Community residences

Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill and community residences for persons with head injuries shall be a permitted use in all residential districts, and the requirements therefore shall be the same as for single family dwelling units located within such districts.”

SECTION 24

Section 21-85 (R-1 District – Single Family Residence) is hereby amended and supplemented to delete the section in its entirety and insert the following in its place and stead:

“A. R-1.01 Single Family Residential

The following regulations shall apply in the R- 1.01 district:

1. Permitted Principal Uses

- a. Single Family detached dwellings, occupied by one family
- b. Public uses operated by Borough
- c. Public utility rights-of-way

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- d. Religious Institutions
- e. Public & Private Schools

2. Permitted Accessory Uses

- a. Private detached garage
- b. Utility buildings incidental to residential use
- c. Swimming pools
- d. Tennis courts
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses

- a. Home occupations
- b. Bed and Breakfasts
- c. Satellite dish antennas

4. Bulk and Area Requirements, as shown in Schedule I.

B. R-1.02 Single Family Residential

The following regulations shall apply in the R- 1.02 district:

1. Permitted Principal Uses

- a. Single Family detached dwellings, occupied by one family
- b. Public uses operated by Borough
- c. Public utility rights-of-way
- d. Religious Institutions
- e. Public & Private Schools

2. Permitted Accessory Uses

- a. Private detached garage
- b. Utility buildings incidental to residential use
- c. Swimming pools
- d. Tennis courts
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses

- a. Home occupations
- b. Bed and Breakfasts
- c. Satellite dish antennas

4. Bulk and Area Requirements, as shown in Schedule I.

C. R-1.03 Single Family Residential

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The following regulations shall apply in the R- 1.03 district:

1. Permitted Principal Uses

- a. Single Family detached dwellings, occupied by one family
- b. Public uses operated by Borough
- c. Public utility rights-of-way
- d. Religious Institutions
- e. Public & Private Schools

2. Permitted Accessory Uses

- a. Private detached garage
- b. Utility buildings incidental to residential use
- c. Swimming pools
- d. Tennis courts
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses

- a. Home occupations
- b. Bed and Breakfasts
- c. Satellite dish antennas

4. Bulk and Area Requirements, as shown in Schedule I.”

SECTION 25

Section 21-86 (R-2 District - Single-Family and Two family Residence) is hereby amended and supplemented to delete the section in its entirety and insert the following in its place and stead:

“21-86 R-2 - Single Family Residence.

The following regulations shall apply in all R-2 districts:

A. R-2.01 Single Family Residential

The following regulations shall apply in the R- 2.01 district:

1. Permitted Principal Uses

- a. Single-Family Detached Dwellings, occupied by one family
- b. Existing bungalow colonies
- c. Public Uses Operated by Borough
- d. Public Utility Rights-of-Way
- e. Religious Institutions
- f. Public & Private Schools

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2. Permitted Accessory Uses

- a. Private Detached Garage
- b. Utility buildings incidental to residential use
- c. Swimming pools
- d. Tennis courts
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses

- a. Home occupations
- b. Satellite dish antennas

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 require an application for a site plan for the entire property and 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. 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 parking space, located on-site, either adjacent to the individual unit or in a common parking area.

(c) Total building coverage shall not exceed 35% of the total lot area and total lot coverage shall not exceed 75%.

(d) Building height shall not exceed 20 feet.

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

B. R-2.02 Single Family Residential

The following regulations shall apply in the R- 2.02 district:

1. Permitted Principal Uses

- a. Single-Family Detached Dwellings, occupied by one family.
- b. Existing bungalow colonies.
- c. Public Uses Operated by Borough
- d. Public Utility Rights-of-Way
- e. Religious Institutions
- f. Public & Private Schools

2. Permitted Accessory Uses

- a. Private Detached Garage
- b. Utility buildings incidental to residential use

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- c. Swimming pools
- d. Tennis courts
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses

- a. Home occupations
- b. Satellite dish antennas

4. Bulk and Area Requirements

- a. Single family dwellings shall meet the requirements shown in Schedule I.
- b. Existing bungalow colonies shall meet the requirements of Section 21-86.A.4.b.
- c. All other uses shall meet the bulk and area requirements of the R-2.02 Zone.

C. R-2.03 Single Family Residential

The following regulations shall apply in the R- 2.03 district:

1. Permitted Principal Uses

- a. Single-Family Detached Dwellings, occupied by one family
- b. Existing bungalow colonies
- c. Public Uses Operated by Borough
- d. Public Utility Rights-of-Way
- e. Religious Institutions
- f. Public & Private Schools

2. Permitted Accessory Uses

- a. Private Detached Garage
- b. Utility buildings incidental to residential use
- c. Swimming pools
- d. Tennis courts
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses

- a. Home occupations
- b. Satellite dish antennas

4. Bulk and Area Requirements

- a. Single family dwellings shall meet the requirements shown in Schedule I.
- b. Existing bungalow colonies shall meet the requirements of Section 21-86.A.4.b.
- c. All other uses shall meet the bulk and area requirements of the R-2.03 Zone.

SECTION 26

Section 21-87 (R-B Residential /Professional Business District) is hereby amended and supplemented to change the title of the zone district to “ Professional Business” district.

SECTION 27

Section 21-88 (MF Multi-Family Residence) subsection 4. is hereby amended and supplemented as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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“3. Conditional Uses

- a. Satellite dish antennas
- b. **Senior Care living facilities**

4. Area and Bulk Requirements

[a. Single and two-family dwellings shall meet the requirements of the R-2 03 district.]

[b] **a.** Multi-family developments shall meet the tract requirements of Schedule I. In addition, they shall meet the following requirements:

1. Density shall not exceed 14 units per acre.
2. Each building shall have associated with it a 25 foot front yard, 12. 5-foot side yards and a 25-foot rear yard. Buildings shall be located not closer together than the sum of the appropriate yard requirements
3. No single building shall exceed [160] **80** feet in length, nor [14] **7** [apartment] **dwelling** units or [8] **4** townhouses.

b. Design Guidelines

Townhouse developments in proximity to waterfront areas shall address the following community objectives for such residential developments:

1. **The placement and location of townhouse structures shall maximize the views of the waterfront from the public realm.**
2. **Notwithstanding the height limitation in Schedule I, the height of the townhouse structures shall be compatible with surrounding properties.**
3. **The exterior architectural design of the townhouse development should be compatible with surrounding properties.**
4. **The design of townhouse developments is encouraged to resemble a manor home or single family structure.”**

SECTION 28

Section 21-90 (B-1 Neighborhood Business District) is hereby amended and supplemented to add the following to

“1. Permitted Principal Uses:”

“Health and fitness establishments; Athletic Club”

SECTION 29

§21-91 (B-2 Central Business District) is hereby amended and supplemented to delete the section in its entirety and insert the following in its place and stead (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

“ 21-91. B-2 - Central Business District

The following regulations shall apply in all B-2 districts:

1. Permitted Principal Uses.

a. Retail, business and personal service establishments which are of both a local and a regional service nature, including, but not limited to:

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- (1) Uses allowed in the B- I district.
- (2) Indoor recreational facilities.
- (3) Religious institutions.
- (4) Hotels, motels, inns, bed and breakfasts.
- (5) Public utilities.

b. Public Uses Operated by the Borough, In the overlay area only:

- (1) [Lumber yards] **Reserved**
- (2) [Landscaping sales and service] **Reserved**
- (3) Contractor's office,
- (4) [Outdoor storage of supplies and equipment in conjunction with any of the allowed uses in the overlay area, in accordance with the provisions of Section 21-81B above.] **Reserved**

2. Permitted Accessory Uses.

Residential use in commercial buildings provided that such use shall not be established on the first floor, that off-street parking be provided the access to which shall not be from Bay Avenue, and that the requirements of subsection 4 b are met.

3. Conditional Uses

Wireless communication facilities

4. Area and Bulk Requirements as shown in Schedule I and below

a. Side yards. No side yard is required adjacent to other properties in the business zone, however, if any is to be provided, it shall be at least five feet. Any side yard which serves as a boundary between that lot and any residence zone shall be at least five feet and shall contain buffering in accordance with the requirements of section

b. For any building containing residential uses, outdoor living space shall be provide, at the rate of 100 square feet per unit, plus 50 square feet per bedroom. This space may be provided either at ground level or directly adjacent to the unit in the form of decks and/or roof top terraces. The area provided shall private, for the exclusive use of the residential tenant and shall be sufficiently screened or otherwise designed to insure that privacy and exclusive use.”

SECTION 30

Section 21-92 (B-3 Central Business District) is hereby amended and supplemented to delete the section in its entirety and insert the following in its place and stead (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

“21-92. B –[3 Resort]Business

The following regulations apply to all B[-3] Business districts.

1. Permitted Principal Uses.

[Hotels, motels, inns,] Bed and breakfasts

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Restaurants

Commercial recreation, indoor or outdoor

Bars and taverns

Retail sales and service establishments

2. Permitted Accessory Uses

Related tourist, resort and recreation facilities and activities, associated with a nonresidential principal use.

3. Conditional Uses

Wireless communication facilities

4. Area and Bulk Requirements, as shown on Schedule 1.”

SECTION 31

Chapter 21 is hereby amended and supplemented to add new section 21-92.01 Highway Oriented Business as follows:

“21-92.01

Highway Oriented Business

The following regulations apply to the Highway Oriented Business zone district:

1. Permitted principal uses.
 - a. All uses permitted in the B-1 Zone
2. Permitted Accessory Uses
 - a. All uses permitted in the B-1 Zone
3. Conditional uses
Wireless communication facilities.
4. Area and Bulk Requirements, as shown in Schedule I.”

SECTION 32

Chapter 21 is hereby amended and supplemented to add new section 21-94.01 WT-C/T Waterfront Transitional-Commercial/Townhouse Zone District as follows:

“21-94.01

Waterfront Transitional-Commercial Townhouse

The following regulations apply to the Waterfront Transitional-Commercial/Townhouse:

1. Permitted principal uses
 - a. All uses permitted in the WT-C zone district.
 - b. Townhouses, at the same density as the R-2.03 zone district and provided that each townhouse structure shall not contain more than three (3) attached units.
2. Permitted Accessory Uses
 - a. All uses permitted in the WT-C zone district.
3. Conditional Uses
 - a. All uses permitted in the WT-C zone district.
4. Area and Bulk Requirements, as shown on Schedule I.”

SECTION 33

Chapter 21 is hereby amended and supplemented to add new section 21-96.01 Mixed Use District as follows:

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“21-96.01

Mixed-Use Zone District (MXD)

A. Purpose

The purpose of the Mixed-Use Zone District (MXD) is to encourage the development of livable neighborhoods which contain townhouse residential dwelling units, professional work space, non-residential uses which are supported by a multi-modal transportation node. The MXD zone district encourages uses that are compatible with and will benefit from the weekday New York City ferry service; the Sandy Hook Bay Marina and open space areas from the County Park. The MXD zone district also should incorporate a unifying seaside architectural theme that will provide attractiveness and consistency to the area.

It is the Borough's intention, in the creation of this zone district, to provide for comprehensive mixed-use development rather than lot-by-lot development to encourage innovative and desirable design and layout of residential and non-residential structures. A mixed-use development shall consist of both residential and non-residential uses.

B. Permitted Principal Uses

1. Residential:
 - a. Townhouses
 - b. Multifamily dwellings in accordance with the MF Multi-family Residence Zone District standards, Section 21-88.
2. Commercial uses in conjunction with a planned mixed-use development:
 - a. Marinas, excluding retail boat sales
 - b. Ferry services
 - c. Professional offices
 - d. Restaurants, including full service and outdoor dining facility

C. Permitted Accessory Uses

1. Boardwalks
2. Charter and excursion boats, off-shore areas
3. Community center, devoted exclusively to the residents of the mixed-use development.
4. Home professional offices
5. Off and on-site Parking
6. Pools, tennis courts, exercise rooms and recreation facilities for use of residents and guests
7. Public & private boatslip/dock for personal watercraft and as accessory to residential and commercial uses
8. Retail services, specific to marina related services
9. Uses accessory or incidental to the principal use

D. Bulk and Area Requirements

1. Minimum Tract size: Six (6) acres

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2. Average setback from tract boundaries and all other right-of-way lines: Twenty (20) feet, but in no case shall the setback be less than fifteen feet (15).
3. Maximum Density: Fourteen (14) dwelling units per acre
4. Minimum tract width: One hundred twenty-five (125) feet
5. Minimum tract depth: One hundred (100) feet
6. Maximum building coverage for the entire tract: Thirty-five (35) percent
7. Maximum floor area ratio for the entire tract: 0.45.
8. Maximum impervious coverage for the entire tract: Eighty (80) percent
9. Maximum units per structure: Five (5) dwelling units
10. Maximum building length: One hundred fifty (150) feet
11. Maximum height: Two and one-half (2.5) habitable stories over the garage at grade level; thirty-five (35) feet.
12. A structure shall not have more than two (2) connected townhouse units on one (1) façade without providing a variation in setback of at least four (4) feet.
13. The spacing of residential buildings shall adhere to the following minimums:
 - a. End wall to end wall = Twenty-four (24) feet
 - b. End wall to window wall = Thirty (30) feet
 - c. Windowed wall to windowed wall:
 - i. Front to front: Seventy-five (75) feet
 - ii. Rear to rear: Fifty (50) feet
 - iii. End to end: Thirty (30) feet
 - d. Any building face to residential access street curb and municipal right-of-way: 20 feet.
 - e. Any building face to common parking area: 12 feet.
14. Minimum separation of non-residential structures from all other principal structures: 30 feet.

E. Townhouse Guidelines

For purposes of this section, Townhouses shall be defined as follows:

An attached one-family dwelling in a row of at least three (3) such units, where each dwelling unit is compatibility designed in relation to all other units, each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

The following requirements shall apply to Townhouse residential dwelling units:

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1. Entrances to townhouses should enhance the pedestrian scale character of the area by strengthening a unit's connection with public streets and internal roadways and by masking the appearance of garage doors.
2. Townhouses fronting on residential streets should have their main pedestrian entrances on the street side.
3. Townhouses adjacent to public roads and trails should have their main front doors visible and accessible from that road or trail, using stairs and new grading, if required, to do so. Direct access for each unit should also be provided to the internal pedestrian and view corridors.
4. The main entrances should emulate the front entrance of single-family homes.
5. Incorporate an architectural theme pursuant to Section G. Architectural Design Guidelines, with the appropriate variations in design to provide attractiveness to the development design.
6. Employ features such as front stairs, stoops, gateways, porches, and weather protection to enhance the residential quality of unit and building entries, the visibility of such entries, a comfortable architectural rhythm along the street, and a human scale.
7. Incorporate human-scale elements (windows, doors, roof elements, trellises, etc.) into the building façade visible from the street.
8. Where townhouses are designed with the end wall adjacent to the public street, the pedestrian entry for the end unit should be designed to also face the street.
9. Discourage situations where the main entrances to units are adjacent to, or on the same façade as garage doors. Garages and off-street parking shall be accessed from the rear of the building, which shall be accessible from a road employing end-unit driveways. Each townhouse unit shall provide at least one (1) parking space in a garage for its exclusive use.
10. Chimneys, dormers, gables, and similar elements may project into the slope of the roof provided they do not exceed one half of the roof line. They should also result in an improved design.
11. All dwelling units shall be connected to approved functioning water and sanitary systems prior to the issuance of a certificate of occupancy.
12. All parking facilities shall be on the same site as the building and located within one hundred fifty (150) feet of the nearest entrance of the building they are intended to serve.
 - a. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal parking.
 - b. Townhouses shall comply with the minimum parking standards of the NJRSIS (Subchapter 4).
13. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building.
14. Dwelling units shall not erect individual external television antennae/satellite dishes.
15. No townhouse dwelling unit shall be less than twenty-four (24) feet wide.

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16. Adequate trash and garbage pick-up stations shall be provided within a totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three (3).
17. Ingress/egress stairs/steps shall not encroach into the municipal right of way.
18. Each townhouse development may have one (1) sign along each public street, which the tract in question abuts, provided there exists at least two hundred fifty (250) feet of unbroken frontage. Such signs shall not exceed six (6) feet in height, shall be set back from the street rights-of-way, property lines, and driveways at least ten (10) feet and shall not exceed an area of fifteen (15) square feet and shall be used to display the development's name.
19. Setback from waterfront shall be pursuant to New Jersey Department of Environmental Protection requirements and regulations.
20. All structures in the Flood Hazard areas, especially the Velocity Zone as defined by the Federal Emergency Management Agency (FEMA), shall comply with FEMA Coastal Construction principles and practices.

F. Multi-Family Residential Guidelines

1. Multi-family residential units shall comply with the requirements of Chapter 21 Section 88, MF Multi-family Residence.

G. Common Facilities

1. All areas put into common ownership for common use by all residents shall be owned by a non-profit homeowners association in accordance with the requirements of the Department of Community Affairs.
2. Townhouse and multi-family residential areas may elect to provide outdoor recreation facilities such as a swimming pool, regulation-size tennis court and other such facilities. Other recreation facilities may include but are not limited to walkways, picnic area and nature trails available to all townhouse residents and their guests.
3. An irrigation system shall be provided where grassed recreation areas occur.
4. Accessory buildings for the outdoor recreation facilities and for maintenance purposes shall be provided and shall be sufficient to store recreational and maintenance equipment and supplies.
5. Public access to the waterfront shall be provided and shall facilitate wheelchair access.

H. Architectural Design Guidelines

The purpose of these design guidelines is to specify the architectural theme to be invoked in the Mixed-Use District in Highlands Borough. These design guidelines are directed towards the development of new townhouse and multi-family residential dwelling units and non-residential structures that employ the "Shingle Style" simplicity, colors and volume.

The residential and non-residential structures in the Mixed Use Zone District (MXD) may include several features of Shingle Style architecture, which includes the following elements:

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- Shingles should form a continuous covering, stretched smooth over rooflines and around corners in a kind of contoured envelope on a two to three story structure. The shingles may be wavy or patterned.
- Exterior building materials shall be appropriate to the Shingle Style. Use of wood is encouraged with attention given to color, texture, details and bond pattern. Other exterior materials, including cedar shake, hardie board and other composite materials that mimic “cedar shingles,” are permitted provided that they are appropriate to the style of the structure. Use of diagonal and vertical wood patterns, wood paneling, naturally painted wood, and similar materials and techniques incompatible with the significant structures in the district is discouraged.
- Exterior surfaces covered in shingles should draw upon natural seaside colors, such as Indian reds, olive green and deep yellows. The Shingle style is monotone and unornamented and is generally stained in a single color to create uniformity.
- Heavy stone foundation spreads low against the ground and masonry is often dark and roughhewn.
- Roofs contain an irregular roofline, cross gables or gambrel roofs. Eaves are found on several levels and are close to the walls so as not to distract from the homogeneous and monochromatic shingle covering. Embellishments may include tall turrets.
- Rounded contours sheltered by a broad and overhanging roof. The sweep of the roof may continue to the first floor level providing cover for wide sweeping porches, or is steeply pitched and multi-planed.
- Entries are defined by heavy (often low) arches; columns are short and stubby.
- Windows may include Palladian windows, casement and sash windows which are generally small, may have many lights, and often are grouped into twos or threes and a distinct curving ‘eyebrow’ dormer.

SECTION 34

Section 21-97 (Conditional Uses) A. is hereby amended and supplemented to insert the following:

“5. Reserved.”

SECTION 35

Section 21-97. (Conditional Uses) G.6 and H.4 shall be modified to revise the reference “Section 6.11” to “Section 21-78.A.4.”

SECTION 36

Section 21-97 (Conditional Uses) is hereby amended and supplemented to add new subsection “I. Senior Care Living Facilities” as follows:

“Senior care living may include assisted living facilities, residential health care facilities; and, continuing care retirement communities, may be permitted as a conditional use in the MF zoning district provided that the lot, use and structure adhere to the minimum standard of the MF zone and the following:

(1) Minimum lot area shall be sixty thousand (60,000) square feet.

(2) Compliance with the bulk, yard and building requirements of the MF Multi-family Residence Zone.

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(3) A Certificate from the New Jersey Department of Health and Senior Services shall be demonstrated.

(4) A buffer area of at least fifteen feet in width shall be provided to adjacent residential uses, consisting of massed evergreen and deciduous plantings.”

Insert Schedule I after section 21-97

SECTION 37

Section 21-98 (Non-Conforming Uses, Structures and Lots) is hereby amended and supplemented to add new Paragraph B as follows:

“ B. Reserved.”

SECTION 38

Section 21-98 (Non-Conforming Uses, Structures and Lots) is hereby amended and supplemented to delete the reference “Section 21-80.B” (“...smallest front yard allowed under Section 21-80.B.”) in subsection 21-98.F.1.g. and insert “Section 21-79.B” in its stead.

SECTION 39

Section 21-99 (Enforcement) is hereby amended and supplemented to delete paragraph E. and insert new paragraphs E and F in its place:

“E. Pre-Framing Survey. For each new building, it shall be a condition of the Zoning Permit that an as-built survey shall be submitted to the Construction Official upon construction of the footing for the building. The survey shall include a certification from a licensed New Jersey surveyor that the location and the first floor elevation comply with the development approvals. Construction on the structure shall be suspended until the Construction Official determines that the location and first floor elevation comply with the development approvals. This determination shall be made within three working days of the submission. The Construction Official may require, at his discretion that this requirement be satisfied for structures other than new principal buildings where there is uncertainty as to compliance with the development approvals.

F. When a subdivision or site plan, as required by this chapter has been duly reviewed and approved by the Board the erection or alteration of the building shall not be deemed to be completed until all the requirements of the approved subdivision or site plan are met. Where weather conditions or other forces beyond the control of the applicant unduly delay the reasonable occupancy of a building under this subsection, a temporary certificate of occupancy may be issued in accordance with section 21-100.”

SECTION 40

Section 21-102 (General Standards) is hereby amended and supplemented to modify subsection B. 7. as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

“Signs placed upon or across public property such as [sidewalks,] hydrants, lampposts, trees, telephone or light poles, or fences, or attached to signs, buildings or other property owned by others. “

SECTION 41

Section 102 (General Standards) Subsection C.4 is hereby amended and supplemented to as follows: additions are shown as thus; deletions are shown as thus

“4. Sign design should follow the guidelines established in the ‘Central Business District, Design Manual’ developed by the Neighborhood Preservation Program and adopted by the Planning Board. (Please refer to Appendix A.) However, any conflicts between the requirements of this Chapter and the Design Manual shall be resolved in favor the Chapter 21.”

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SECTION 42

Section 103 (Specific standards by zone district) subsection B (Business district) is hereby amended and supplemented to modify the title of the subsection, as follows:

“B. Business Districts, except the Highway Oriented Business district.”

SECTION 43

Section 21-103 (Specific standards by zone district) is hereby amended and supplemented to add the following new paragraph D. Highway Oriented Business district:

“D. Highway Oriented Business district

Signs in the Highway Oriented Business district shall comply with all applicable provisions of Part 5 (Sign Regulations). Standards for signs in the Highway Oriented Business district shall be as follows:

1. Wall mounted signs in accordance with subsection 21-103. B.
2. Free-standing signs for single tenant buildings as follows:

- | | | |
|-----|-----------|------------------------|
| (a) | Size: | 24 square feet maximum |
| (b) | Height: | 10' maximum |
| (c) | Quantity: | 1 maximum |
| (d) | Setback: | 5' minimum |

3. Free-standing signs for multiple tenant buildings as follows:

- | | | |
|-----|-----------|------------------------|
| (a) | Size: | 48 square feet maximum |
| (b) | Height: | 12' maximum |
| (c) | Quantity: | 1 maximum |
| (d) | Setback: | 10' minimum |

SECTION 44

Part 6 (Fee Schedule) is hereby amended and supplemented to delete the part in its entirety and insert the following in its place and stead:

**“PART 6
FEE SCHEDULE
Article XXIII
Fees**

The following Schedule of Fees is established for the various applications for development and other matters, which are the subject of this Chapter. These fees shall be non-refundable and are for the purpose of offsetting Borough administrative, clerical and meeting costs. Applications requiring a combination of approvals, such as subdivision, site plan and/or variances shall require a fee equal to the sum of the individual fees for each element of the application. Escrow deposits for professional consultants, such as legal, planning, engineering, or other professional fees, costs and expenses, shall also be required in accordance with Section 108.

All fees and escrow deposits required in Section 21-107 and 21-108 shall be paid prior to the certification of a complete application.

Schedule of Fees

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A. Variances

| | |
|--|----------|
| 1. For proceedings governed by N.J.S.A. 40:55D70a. | \$125.00 |
| 2. For proceedings governed by N.J.S.A. 40:55D70b. | \$125.00 |
| 3. For proceedings governed by N.J.S.A. 40:55D70c. | |
| For residential | \$125.00 |
| For non-residential | \$250.00 |
| 4. For proceedings governed by N.J.S.A. 40:55D70d. | |
| For residential | \$150.00 |
| For non-residential | \$500.00 |
| 5. For proceedings governed by N.J.S.A. 40:55D34 | \$ 75.00 |
| 6. For proceedings governed by N.J.S.A. 40:55D36 | |
| For residential | \$ 75.00 |
| For non-residential | \$200.00 |

In order to qualify for the lower fees established for residential applications, an application must be exclusively residential in character, and can only be for a single use on the lot or tract. Any application not complying with each of these conditions shall fall under the higher fee schedule.

B. Subdivisions

| | |
|-------------------------------------|--|
| 1. Simple lot line change or merger | \$100.00 |
| 2. Minor subdivision | \$400.00 |
| 3. Major subdivision | |
| a. Conceptual review | 10% of the preliminary fee (to be applied to preliminary fee at time of preliminary submission) |
| b. Preliminary plat | \$500.00 plus \$50.00 per lot |
| c. Final | 50% of preliminary fee |

C. Site Plans

| | |
|-------------------------|---|
| 1. Minor | \$250.00 |
| 2. Major | |
| a. Conceptual review | 10% of the preliminary fee (to be applied to preliminary fee at time of preliminary submission) |
| b. Preliminary approval | \$1,000.00 plus \$50.00 per acre or part thereof and \$20.00 per 1,000 square foot of building floor area or part thereof; or \$20.00 per dwelling unit |
| c. Final approval | 50% of preliminary fee |

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| | |
|--|--|
| 3. Application for revised approval of site plan | \$100.00 |
| D. Flood plain review – Residential | \$ 50.00 |
| Non-residential | \$100.00 |
| E. Conditional use applications | \$250.00 |
| F. Individual plot plan review | \$300.00 |
| G. Zone changes. Applications or requests to consider a change in the zoning ordinance made either to the Planning Board or the Borough Council shall be subject to the payment of a fee of \$250.00 plus an escrow deposit in the amount of \$2,000.00 in accordance with the provisions of Section 21-108 below. | |
| H. Zoning Permits | |
| 1. Single or two family residential (new) | \$ 50.00 |
| 2. Other residential | \$100.00/unit |
| 3. Residential renovations | \$ 10.00 |
| 4. Non-residential (new) | \$100.00 |
| 5. Non-residential renovations | \$ 25.00 |
| I. Certificate of Continuing Occupancy | \$50.00 |
| J. Smoke detector permit, per N.J.A.C. 5:18 | \$35.00 |
| K. Fence permit | \$15.00 |
| L. Miscellaneous | |
| 1. Copies of minutes | At per page fee established by ordinance |
| 2. Copy of verbatim transcript | At expense of requesting party |
| 3. Copy of decision | No charge to applicant |
| 4. List of property owners within 200 feet | \$10.00 or \$0.25 per name, whichever is greater |
| 5. Court reporter | At expense of requesting party |
| 7. Certificate of Subdivision, Per N.J.S.A. 40:55D-56 | \$ 10.00 |

21-108. Escrow accounts and technical review fees

A. Escrow Accounts

1. In addition to the above general non-refundable fees for each application filed, the applicant shall reimburse the Borough for all professional or technical review fees deemed necessary or desirable by the Board, and shall establish an escrow fund with the Borough Treasurer to pay such fees or charges. The escrow fund shall be utilized to reimburse the Borough for all costs, which are reasonable and related to the review of such application.
2. As part of the application submission, the applicant shall be required to make a deposit to the escrow account in an amount provided for in B. below. If the amount posted is not sufficient to cover the Borough's professional charges associated with the application, the Board shall request additional funds.

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3. After approval of an application and prior to the start of construction, the applicant shall be required to deposit with the Borough Clerk engineering inspection escrow fees to provide for anticipated inspection and any additional professional review services in accordance with C. below.
4. Additional escrow funds, equal to 25% of the applicable escrow fee, will be required upon submission of a revised plan for review by Board professionals.
5. Additional escrow funds shall be required when the balance of any escrow account reaches twenty percent (20%) of the initial deposit. The Borough shall notify the applicant who shall be requested to deposit up to thirty-five percent (35%) of the original escrow account. No further consideration, review, processing or inspection shall take place until the additional escrow has been paid.
6. For escrow deposits over \$5,000.00 the procedures under N.J.S.A. 40:55D-53.1 shall prevail.
7. At the applicant's written request and at his cost, an account of the expenses or fees paid by him for professional services shall be provided. Borough professional shall submit vouchers for all services to be assessed against an escrow account, which vouchers shall state the hours spent, the hourly rate and the expenses incurred.
8. Any unexpended monies remaining after the completion of the project and maintenance period shall be returned to the applicant.

B. Escrow deposits for professional and technical review

The initial deposit of escrow funds for technical and professional review of an application shall be in an amount equal to double the application fee, but not less than \$750.00

C. Escrow deposit for inspection

Prior to the start of construction, the applicant shall post engineering inspection fees determined in accordance with the provisions of N.J.S.A. 40:55D-53h and 53.4. Inspection fees shall be five percent (5%) of the cost of improvements, with a minimum of \$500.00."

SECTION 45

Section 21-113 (Definitions) is hereby amended and supplemented as follows (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

"Local Administrator – The **Borough Administrator** [Board Engineer] or such other Borough official designated by the Mayor."

SECTION 46

Section 21-120 (Development permit) is hereby amended and supplemented to modify the section in accordance with the following (Additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

"21-120 Development permit

A development permit shall be required in conformance with the provisions of this section and other applicable municipal ordinances. Development permits for all construction shall require review and approval by the [Planning Board after a public hearing] **Borough Administrator or his designee. Applications for a development permit addressing compliance with Part 7 of this chapter shall be subsequent to any required subdivision, site plan or variance approvals granted by the Planning Board or Zoning Board of Adjustment.** Application for a development permit shall be

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made to the local administrator[, construction official, engineer or planner] on forms furnished by him and shall include, but not be limited to, the following:

- A. Five copies of plans, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill, storage of materials; drainage facilities; and the location of the foregoing, including:
 - 1. The existing and proposed contours at a contour interval of one (1) feet and/or sufficient spot elevations to determine adequately the elevation of the land.
 - 2. The proposed elevations of the lands involved at the corners of the foundation of any structure or structures.
 - 3. The layout of existing and proposed public streets and the nature, extent and location of existing and proposed utilities servicing and to service the premises in question.
 - 4. The elevation of any existing or proposed pumping facilities and overflow elevations of vents or entranceways, if underground; overflow elevations of sewage treatment plant units.
 - 5. The nature and extent of the construction alterations or repairs.
 - 6. The extent of filling of the land, if any.
 - 7. For subdivisions and site plans, the surrounding structures within a two-hundred foot radius.
- B. Elevation, in relation to mean sea level (both NAVD 1988 and NGVD 1929), of the lowest floor of all structures.
- C. Elevation, in relation to mean sea level, to which any structure has been flood proofed.
- D. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 21-125 and 21-126.
- E. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and placed approximately on the same flood flow lines as those of adjoining structures.
- F. The plan shall constitute the minimum amount of fill, which will be required and still remain consistent with the section.
- G. All new and replacement utilities and facilities such as water, sewer and electrical systems are located, elevated and constructed to minimize or eliminate flood damage. These shall include non-watertight manholes, watertight manholes with vents, raised vents, flap valves, etc. Such facilities shall be constructed with overflow elevation at least one (1) foot above the flood.
- H. New or replacement water systems and sanitary sewage systems shall be designed and located to prevent infiltration, leakage, impairment or contamination during flooding.
- I. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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- J. No buried fuel oil tanks shall be permitted unless properly anchored and vented, with the vent at least one (1) foot above the flood level. In addition, the fill pipe shall also be at least one (1) foot above the flood level.
- K. All mechanical devices and equipment subject to water damage, including furnaces and electrical distribution centers, shall be located at least one (1) foot above the base flood elevation.
- L. All utilities shall be flood proofed to at least two (2) feet above the base flood elevation.
- M. Backfill shall be of soils with natural low permeability or of soils treated to minimize permeability.
- N. Eight (8) inches of compacted granular fill shall be used beneath the ground flood and shall be daylighted in order to act as a French drain.
- O. Where a construction method is chosen or required which requires the structure to be elevated on fill, the fill shall be placed to at least (1) foot above the flood hazard elevations for a distance of at least five (5) feet outside the building walls. The finished grade shall be sloped to drain away from the structure for a distance of at least five (5) feet.
- P. All subdivision proposals shall be consistent with the need to minimize flood damage.
- Q. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- R. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- S. ENCLOSURE OPENINGS

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

[E.]I. Plans of any walls to be used to enclose space below the base flood level.

[F.]U. Proof that the application has taken into account any flood plain management programs, if any, already in effect.

[G.]V. After the structure is built, the Applicant, at the Applicant's expense, shall provide the local administrator with a certification by a New Jersey licensed engineer or land surveyor of the lowest flood elevations are met.

SECTION 47

Section 21-121 (Designation of Local Administrator) is hereby amended and supplemented as follows:

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“21-121 Designation of Local Administrator

The local administrator,[construction official, engineer or planner shall position] **or his designee** is hereby established to administer and implement this section by [coordinating development permit applications granted or denied by the appropriate municipal official, board or governing body in accordance with the provisions of that permit]**by granting or denying floodplain development permits in accordance with its provisions.”**

SECTION 48

Section 21-123 (Appeals and Variance Procedures) Paragraph A.2. is hereby amended and supplemented to modify the section in accordance with the following (Additions indicated in boldface **thus**; deletions indicated in brackets **[thus]**):

“2. Appeals from the administrator’s interpretation of any requirement, decision or determination under this section shall be made to the Planning Board, **except in such cases, as the Board of Adjustment is the board of proper jurisdiction.** All requests for variances shall be made to the Planning Board, except where the Applicant is seeking a variance **[with regard to use]** in accordance with N.J.S.A. 40: 55 D-70.**[d]**, in which case the Board of Adjustment is hereby empowered to hear and decide a request for a variance pursuant to this section.”

SECTION 49. *Severability.*

The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 50 *Repealer.*

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

SECTION 51. *Certified Copy*

A certified copy of the within Ordinance shall be forwarded by the Borough Clerk to the clerks of all adjoining municipalities, the Monmouth County Planning Board and the following:

1. Borough Administrator
2. Borough Engineer
3. Planning Board
4. Zoning Board
5. Borough Attorney
6. Tax Assessor
7. Zoning Official

BE IT FURTHER ORDAINED that this ordinance shall take effect upon final passage and publication in accordance with law.

Seconded by Mr. Nolan and introduced on the following roll call vote:

ROLLCALL:

AYES: Mr. Nolan, Miss Thomas, Mayor O’Neil

NAYES: Mr. Caizza

ABSENT; None

ABSTAIN: None

NOTE: Mr. Urbanski left the table due to a conflict of interest on this matter.

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**INSERT ATTACHEMENTS HERE
TO ORDINANCE O-07-03**

ATTACHMENT: APPENDIX A SIGNS GUIDELINES
ATTACHMENT: APPENDIX B BUILDING HEIGHT ILLUSTRATION
ATTACHMENT: Zoning Map
ATTACHMENT: Schedule I

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Ordinance O-07-04

Mrs. Flannery read the title of the Ordinance O-07-04 for introduction and setting of a public hearing date.

Mr. Nolan offered the following Bond Ordinance pass introduction and that a public hearing date be set for March 7, 2007 at 8:00 P.M. and authorized its publication according to law:

O-07-04

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$245,000 FOR VARIOUS IMPROVEMENTS TO COMMUNITY CENTER PARK AND PLAYGROUND FOR AND BY THE BOROUGH OF HIGHLANDS IN THE COUNTY OF MONMOUTH, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$177,500 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.

BE IT ORDAINED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Borough of Highlands, New Jersey (the "Borough") as general improvements. For the said Improvements there is hereby appropriated the amount of \$245,000, such sum includes the sum of (a) \$58,000 expected to be received from the County of Monmouth and (b) \$9,500 as the down payment (the "Down Payment") required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the "Local Bond Law"). The Down Payment is now available by virtue of provision in one or more previously adopted budgets for down payments for capital improvement purposes.

SECTION 2:

In order to finance the cost of the Improvements, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$177,500 pursuant to the provisions of the Local Bond Law (the "Bonds"). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$177,500 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

(a) The Improvements authorized and the purpose for which obligations are to be issued, the estimated cost of each Improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each Improvement and the period of usefulness of each Improvement are as follows:

| <u>Improvements</u> | <u>Appropriation and Estimated Cost</u> | <u>Estimated Maximum Amount of Bonds or Notes</u> | <u>Period of Usefulness</u> |
|---------------------|---|---|-------------------------------------|
|---------------------|---|---|-------------------------------------|

| Improvements | Appropriation and Estimated Cost | Estimated Maximum Amount of Bonds or Notes | Period of Usefulness |
|--|--|---|----------------------------|
| Various improvements to Community Center Park and Playground located at 22 Snug Harbor Avenue, including all work or materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications thereof on file in the office of the Borough Clerk. | \$245,000 | \$177,500 | 15 Year |

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$177,500.

(c) The estimated cost of the Improvements is \$245,000 which amount represents the initial appropriation made by the Borough. The excess of the appropriations made for the Improvements over the grant expected to be received and the estimated maximum amount of Bonds or Notes authorized to be issued therefor as stated above is the amount of the Down Payment.

SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Borough (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The

Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council of the Borough at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form 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, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Borough may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the Improvements, within the limitations of the Local Bond Law, and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 15 years.

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(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Borough, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$177,500 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$50,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds received from time to time by the Borough as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Borough authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$177,500.

SECTION 10:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Seconded by Miss Thomas and introduced on the following roll call vote:

ROLLCALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

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Ordinance: Public Hearing & Adoption

Ordinance O-07-01

Mrs. Flannery read the title of Ordinance O-07-01 for public hearing.

Mayor O'Neil opened the public hearing up for Ordinance O-07-01.

There were no questions or comments from the public; therefore the public hearing on Ordinance O-07-01 was closed.

Mrs. Flannery read the title of Ordinance O-07-01 for the final reading and adoption.

Mayor O'Neil offered the following Ordinance and moved on its adoption and authorized its publication according to law:

**O-07-01
BOROUGH OF HIGHLANDS
I. COUNTY OF MONMOUTH**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF
HIGHLANDS
BY ADDING CHAPTER XXV, STORMWATER MANAGEMENT AND
CONTROL**

BE IT ORDAINED by the Mayor and Council of the Borough of Highlands, in the County of Monmouth and State of New Jersey, as follows:

SECTION 1

That Chapter XXV, Stormwater Management and Control, is added as follows:

1.1 Title

This section shall be known as and may be cited as the "Stormwater Management Ordinance of the Borough of Highlands"

1.2 Scope and Purpose

a. Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural Best Management Practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

b. Purpose

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It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for “major development” as defined in Section 2, Definitions.

c. Applicability

1. This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

- a. Non-residential major developments; and
- b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21; and

2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Highlands.

d. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

SECTION 2

2.1 Definitions

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

CAFRA Planning Map means the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

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CAFRA Centers, Cores or Nodes means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

Compaction means the increase in soil bulk density.

Core means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

County review agency means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

Department means the New Jersey Department of Environmental Protection.

Designated Center means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

Design engineer means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

Development means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

Drainage area means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

Environmentally critical areas means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Non-game Species Program.

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Empowerment Neighborhood means a neighborhood designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

Erosion means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Impervious surface means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

Infiltration is the process by which water seeps into the soil from precipitation.

Major development means any “development” that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

Municipality means the Borough of Highlands.

Node means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

Nutrient means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

Person means any individual, corporation, company, partnership, firm, association, Borough of Highlands, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Pollutant means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and non-hazardous pollutants.

Recharge means the amount of water from precipitation that infiltrates into the ground and is not evapo-transpired.

Sediment means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site means the lot or lots upon which a major development is to occur or has occurred.

Soil means all unconsolidated mineral and organic material of any origin.

State Development and Redevelopment Plan Metropolitan Planning Area (PA1) means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.

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State Plan Policy Map is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

Stormwater means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

Stormwater runoff means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

Stormwater management basin means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

Stormwater management measure means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

Tidal Flood Hazard Area means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

Urban Coordinating Council Empowerment Neighborhood means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

Urban Enterprise Zones means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

Urban Redevelopment Area is defined as previously developed portions of areas: (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes; (2) Designated as CAFRA Centers, Cores or Nodes; (3) Designated as Urban Enterprise Zones; and (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

Waters of the State means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

Wetlands or **wetland** means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

SECTION 3

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3.1 General Standards

- a Design and Performance Standards for Stormwater Management Measures
- 1 Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section 4.1. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
 - 2 The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

SECTION 4

4.1 Stormwater Management Requirements for Major Development

The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 10.1.

Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).

The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.1.f and 4.1.g:

1. The construction of an underground utility line provided that the disturbed areas are re-vegetated upon completion;
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.1.f and 4.1.g may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

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The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 4.1.f and 4.1.g to the maximum extent practicable;

The applicant demonstrates that, in order to meet the requirements of Sections 4.1.f and 4.1.g, existing structures currently in use, such as homes and buildings, would need to be condemned; and

The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 4.1.d.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 4.1.f and 4.1.g that were not achievable on-site.

Nonstructural Stormwater Management Strategies

To the maximum extent practicable, the standards in Sections 4.1.f and 4.1.g shall be met by incorporating nonstructural stormwater management strategies set forth at Section 4.1.e into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

Nonstructural stormwater management strategies incorporated into site design shall:

Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;

Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;

Maximize the protection of natural drainage features and vegetation;

Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

Minimize land disturbance including clearing and grading;

Minimize soil compaction;

Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

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Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 4.1.e.3 below;

Site design features that help to prevent discharge of trash and debris from drainage systems;

Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24- 39 et seq., and implementing rules.

Site design features identified under Section 4.1.e.2(i)(ii) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 4.1.e.3(c) below.

Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the

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smallest dimension.

This standard does not apply:

Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

Where flows from the water quality design storm as specified in Section 4.1.g.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

A bar screen having a bar spacing of 0.5 inches.

Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 4.1.g.1; or

Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 4.1.f and 4.1.g shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices (BMP) Manual. The BMP Manual may be obtained from the address identified in Section 7.1, or found on the Department's website at www.njstormwater.org.

Erosion Control, Groundwater Recharge and Runoff Quantity Standards

This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

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The minimum design and performance standards for groundwater recharge are as follows:

The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 5.1, either:

Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated

This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to Section 4.1.f.1(b)(iii) below.

The following types of stormwater shall not be recharged:

Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.

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In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5.1, complete one of the following:

Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (i), (ii) and (iii) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

Any application for a new agricultural development that meets the definition of major development in Section 2.1 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this Section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this Section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

Stormwater Runoff Quality Standards

Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey

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Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

| Table 1: Water Quality Design Storm Distribution | | | |
|---|-------------------------------------|-----------------------|-------------------------------------|
| Time (Minutes) | Cumulative Rainfall (Inches) | Time (Minutes) | Cumulative Rainfall (Inches) |
| 0 | 0.0000 | 65 | 0.8917 |
| 5 | 0.0083 | 70 | 0.9917 |
| 10 | 0.0166 | 75 | 1.0500 |
| 15 | 0.0250 | 80 | 1.0840 |
| 20 | 0.0500 | 85 | 1.1170 |
| 25 | 0.0750 | 90 | 1.1500 |
| 30 | 0.1000 | 95 | 1.1750 |
| 35 | 0.1330 | 100 | 1.2000 |
| 40 | 0.1660 | 105 | 1.2250 |
| 45 | 0.2000 | 110 | 1.2334 |
| 50 | 0.2583 | 115 | 1.2417 |
| 55 | 0.3583 | 120 | 1.2500 |
| 60 | 0.6250 | | |

For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7.1, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 7.1. Total Suspended Solids (TSS) reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418 Trenton, New Jersey, 08625-0418.

If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

- R = total TSS percent load removal from application of both BMPs
- A = the TSS percent removal rate applicable to the first BMP
- B = the TSS percent removal rate applicable to the second BMP

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| Table 2: TSS Removal Rates for BMPs | |
|--|---------------------------------|
| Best Management Practice | TSS Percent Removal Rate |
| Bioretention Systems | 90 |
| Constructed Stormwater Wetland | 90 |
| Extended Detention Basin | 40-60 |
| Infiltration Structure | 80 |
| Manufactured Treatment Device | See Section 6.1.c |
| Sand Filter | 80 |
| Vegetative Filter Strip | 60-80 |
| Wet Pond | 50-90 |

If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 4.1.f and 4.1.g.

Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.1.

In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

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Encroachment within the designated special water resource protection area under Subsection 4.1.g.8(a)(i) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.

If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

Stabilization measures shall not be placed within 150 feet of the Category One waterway;

Stormwater associated with discharges allowed by this Section shall achieve a 95 percent TSS post-construction removal rate;

Temperature shall be addressed to ensure no impact on the receiving waterway;

The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

All encroachments proposed under this Section shall be subject to review and approval by the Department.

A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 4.1.g.8 has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource

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protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Section 4.1.g.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in 4.1.g.8.(a)(i) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

Paragraph 4.1.g.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

SECTION 5

5.1 Calculation of Stormwater Runoff and Groundwater Recharge

- a Stormwater runoff shall be calculated in accordance with the following:
- 1 The design engineer shall calculate runoff using one of the following methods:
 - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or
 - (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
 - 2 For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at Section 5.1.a.1(a) and the Rational and Modified Rational Methods at Section 5.1.a.1(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
 - 3 In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.
 - 4 In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or

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volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

- 5 If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- b Groundwater recharge may be calculated in accordance with the following:
- 1 The New Jersey Geological Survey Report GSR-32 *A Method for Evaluating Ground-Water Recharge Areas in New Jersey*, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

SECTION 6

6.1 Standards for Structural Stormwater Management Measures

Standards for structural stormwater management measures are as follows:

Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1”) spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.1.d.

Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 8.1.

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Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 4.1 of this Chapter.

Manufactured treatment devices may be used to meet the requirements of Section 4.1 of this Chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

SECTION 7

7.1 Sources for Technical Guidance

- a Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; Telephone (609) 777-1038.
 - 1 Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bio-retention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
 - 2 The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
- b Additional technical guidance for stormwater management measures can be obtained from the following:
 - 1 The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
 - 2 The Rutgers Cooperative Extension Service, 732-932-9306; and
 - 3 The Freehold Soil Conservation Districts, 4000 Kozloski Road, Freehold, NJ 07728, (732) 683-8500.

SECTION 8

8.1 Safety Standards for Stormwater Management Basins

- a This Section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This Section

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applies to any new stormwater management basin.

- b Requirements for Trash Racks, Overflow Grates and Escape Provisions
- 1 A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - (d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
 - 2 An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.
 - 3 For purposes of this paragraph, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
 - (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 8.1.c a freestanding outlet structure may be exempted from this requirement.
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 8.1.d for an illustration of safety ledges in a stormwater management basin.

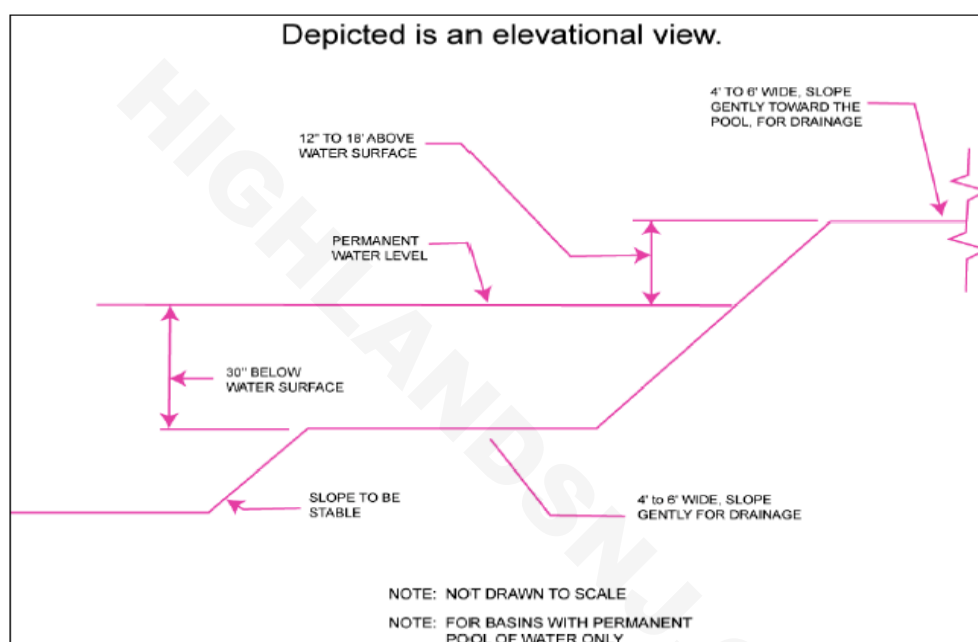
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(c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

c Variance or Exemption from Safety Standards

- 1 A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

d Illustration of Safety Ledges in a New Stormwater Management Basin



SECTION 9

9.1 Requirements for a Site Development Stormwater Plan

a Submission of Site Development Stormwater Plan

- 1 Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 9.1.c below as part of the submission of the applicant's application for subdivision or site plan approval.
- 2 The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
- 3 The applicant shall submit 15 copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 9.1.c of this ordinance.

b Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the

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Planning Board, Zoning Board of Adjustment or official from which municipal approval is sought. The Board and/or Zoning Officer shall consult the Borough Engineer or other such engineer (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

c Checklist Requirements

The following information shall be required:

1 Topographic Base Map

- (a) The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2 Environmental Site Analysis

- (a) A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3 Project Description and Site Plan(s)

- (a) A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4 Land Use Planning and Source Control Plan

- (a) This plan shall provide a demonstration of how the goals and standards of Sections 3.1 through 6.1 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5 Stormwater Management Facilities Map

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- (a) The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - (i) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (ii) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6 Calculations

- (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 4.1 of this ordinance.
- (b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7 Maintenance and Repair Plan

- (a) The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.1.

8 Waiver from Submission Requirements

- (a) The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 9.1.c.1 through 9.1.c.6 of this Section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

SECTION 10

10.1 Maintenance and Repair

a Applicability

- 1 Projects subject to review as in Section 1.2.c of this ordinance shall comply with the requirements of Sections 10.1.b and 10.1.c.

b General Maintenance

- 1 The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major

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development.

- 2 The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- 3 Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
- 4 If the person responsible for maintenance identified under Section 10.1.b above is not a public agency, the maintenance plan and any future revisions based on Section 10.1.b.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- 5 Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
- 6 The person responsible for maintenance identified under Section 10.1.b .2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
- 7 The person responsible for maintenance identified under Section 10.1.b 2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
- 8 The person responsible for maintenance identified under Section 10.1.b. 2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 10.1.b.6 and 10.1.b.7 above.
- 9 The requirements of Sections 10.1.b.3 and 10.1.b.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
- 10 In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair,

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the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the Borough or the County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

- c Nothing in this Section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

SECTION 11

11.1 Penalties

- a Any person who violates any provision of this ordinance shall, upon conviction thereof in municipal Court, be punishable by imposition of the penalties set forth in Chapter IX.
- b Each instance of engaging in a separate regulated activity, in violation of this ordinance shall be deemed a separate offense.
- c In addition, the Borough may institute civil action for injunctive or other relief to enforce the provision of this ordinance.

SECTION 12

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

SECTION 13

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 14

The Borough Clerk is hereby directed, upon adoption of this Ordinance after public hearing thereon, to publish notice of the passage thereof and to file a copy of this ordinance as finally adopted with the Monmouth County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this ordinance after final passage to the Borough Tax Assessor as required by N.J.S. 40:49-2.1.

SECTION 15

This ordinance shall take effect immediately upon the approval by the County review agency, or sixty (60) days from the receipt of the ordinance by the County review agency if the county review agency should fail to act.

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

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ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Committee Reports:

Public Safety:

Chief Blewett stated the following:

1. Annual Report for 2006 – the Police Department has met all of their goals and objectives for 2006 which include their website. They have started their Explorer Program with great success, they have installed video recording devices in all of the police vehicles, the new computer network has been installed and the new Court Security Procedures have been implanted as required.
2. They have had their first Open Public Meeting at Henry Hudson which included guest speakers who spoke about gang violence and school violence. We plan to schedule two of these meetings a year.
3. They had a training session up at Henry Hudson which will take place twice a year and similar training will take place at the Highlands Elementary School.
4. We have received a new speed enforcement sign which is on Bay Avenue.
5. Calls for the year of 2006 were 7,426. They initiated 2,457 motor vehicle stops.

Finance:

Mr. Pfeffer stated the following:

Bond Anticipation Note Sale results were as follows: \$3,288,950

| | | | |
|------------------------------------|---------|--|-------------|
| Projects; | | | |
| Firehouse | 98-11 | | \$1,684,100 |
| Drainage Improvements | 05-11 | | \$ 166,250 |
| Community Center | 05-20 | | \$ 557,000 |
| Valley St. Stormwater Pump Station | 06-02 | | \$ 359,100 |
| Valley St. Stormwater Pump Station | 06-07 | | \$ 95,000 |
| Various Road Improvements | 06-13 | | \$ 427,500 |
| Acq. of Property – Forgotson | 01-1056 | | |

Total \$3,288,950

| | | | | | |
|----------------------|------------------|----------------|--------------|------------------|-------------------|
| Issuance Date | January 31, 2007 | | | Days Outstanding | |
| Maturity Date | January 30, 2008 | | | 360 | |
| Bidder | Interest Rate | Gross Proceeds | Less Premium | Net Interest | Net Interest Rate |
| Valley National Bank | 3.9000% | 128,269.05 | | 128,269.05 | 3.9000% |
| Commerce Capital Mkt | 4.0000% | 131,558.00 | 8,090.82 | 123,467.18 | 3.7540% |
| Bank of America | 3.7900% | 124,651.21 | | 124,651.21 | 3.79% |
| Parker Hunter | 4.3500% | 143,069.33 | 14,242.00 | 128,827.33 | 3.917% |
| Sovereign Securities | 4.1250% | 135,669.19 | 9,241.95 | 126,427.24 | 3.844% |

Awarded To: **Commerce Capital Markets**

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Mr. Pfeffer explained the tax reform and recent legislation that will have an effect on the borough's budget cap which will be a 4% cap. We are still waiting for definite guidance and regulations to come from the State. Calendar year budgets have already been pushed back a month anticipating that they will have to develop new regulations. So, right now we are just waiting to see what the State sends us to see how we will be affected by this legislation. He described the possible impacts from this new legislation and stated that forced layoffs and forced reduction of municipal services is a possibility.

Roberta McEntee of Fifth Street questioned when this new tax reform legislation will take place.

Mr. Pfeffer – he believes that rebate checks for something like homestead rebates will be sent out by the State sometime in November which he further explained.

Donald Manrodt of 268 Bayside Drive questioned the budget cap.

Mr. Pfeffer stated that we need to wait and see what kind of exceptions there will be to the tax reform budget cap.

Donald Manrodt questioned the tax freeze for Senior Citizens.

Mr. Pfeffer stated that he has not seen any new information on the tax freeze.

Parks/Recreation

Miss Thomas stated the following:

1. The Basketball League for the Fourth through Sixth Graders was changed to both boys and girls rather than boys only. Games are Tuesday and practices are on Thursday at Highlands Elementary School.
2. Adult Open Gym Basketball is on Monday evenings at the Highlands Elementary School.
3. Adult Indoor Soccer is at Henry Hudson Regional School on Monday evenings.
4. We have some upcoming Senior Activities as follows: Red Cross will be speaking at the Community Center on February 8th at 1:00 P.M. regarding lifelines. There is also a Bingo on February 15th.
5. We have a public hearing scheduled for March 7th with regard to our Open Space. We will be looking for input from our residents with regard to our Open Space.
6. The Community Center Project is going well. The doors are installed and the kitchen equipment is going to be delivered.
7. We are working on a survey to go out to the residents to see what the community would like to have offered by our Recreation Department.

Mayor O'Neil – I met with Father Bob Tynski of OLPH and he spoke about getting some kind of recreation program maybe at OLPH and perhaps starting some sort of Youth Group. He is going to be installed as the Pastor up there on Sunday at 10:30.

HBP

Carla Cefalo-Braswell, Highlands Business Partnership stated the following:

1. We had our first Board of Directors Meeting on February 1st and there was great attendance at the meeting.
2. We submitted our budget to the Borough Clerk for introduction on February 21st for \$95,000.00.
3. Mr. Hill is working on our Borough Event Meeting for the St. Patrick's Day Parade which will be on Saturday, March 24th at 2:00 P.M.

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4. She announced that Volunteers are welcomed and they can call 732-291-4713.

Other Business:

Request to Vacate Property from Eugene Shute – Along Shore Drive

Mrs. Flannery stated that the Borough received a request for a vacation from Eugene Shute for 114 Valley Avenue at Shore Drive. This portion of Shore Drive would probably affect Shute, Van Wagner, Grasso, Sutton and Whitecavage.

Mr. Manco explained that the Borough does not need the approval of property owners to vacate this portion of Shore Drive but you do have to notify them of the Statute and if it is land locking a property then you do not want to do that.

Mayor O'Neil stated that he does not believe that this vacation would create a land lock situation.

The Governing Body discussed this request and stated that currently the Shute driveway is overlapping onto the right-of-way. They also requested that the Borough Clerk pull the Engineers Report and Meeting Minutes from the Van Wagner Vacation Request.

Report on the Monmouth Hills Sewer System

Mayor O'Neil requested that this item be placed on an upcoming meeting agenda to give the Governing Body more time to review it.

Report from Engineer RE: Ptak Towers Retaining Wall Repair

The Governing Body requested that this item be placed on the March 21st agenda because the Borough Engineer will be at that meeting.

Gloria Miller from the Housing Authority explained that they have changed the plan so that they do not have to go on anyone's property to do the work.

Request for use of Kavookjian Field from Henry Hudson Regional H.S.

Mrs. Flannery stated that HHR has requested use of the field for baseball.

Mayor O'Neil offered a motion to approve the use of Kavookjian Field for Henry Hudson Regional. H.S. Baseball, seconded by Miss Thomas and all were in favor.

Mayor O'Neil stated that he spoke with Tom Kavookjian about doing improvements to Kavookjian Field and he was supposed to fax down a Consultants name who does that tower work.

Mr. Manco stated that he did a while ago and we had a proposal previously on that and we have a consensus to go ahead with that and he will speak to Mr. Kavookjian and get it authorized, it was a not to exceed \$2,000 proposal

Mayor O'Neil explained to the public that we are looking to maybe put a cell tower up at Kavookjian Field or an aerial to cover some blind spots in the town that we have with our radios for the Police which he further described.

Fire Department Request for Membership – Anthony Ventimiglia

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Mr. Caizza offered a motion to approve the Fire Department Application of Anthony Ventimiglia, seconded by Mayor O'Neil and all were in favor.

Approval of Authorization to Receive Bids for Basin 8 Sanitary Sewer Rehabilitation

Mrs. Flannery stated that she received a fax from T & M Associates today requesting authorization to go out to bid for Basin 8 Sanitary Sewer Rehabilitation.

Mr. Urbanski offered a motion to authorize T & M to go out to bid, seconded by Mayor O'Neil and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

NAYES: None

ABSTAIN: None

Public Portion:

Chris Francy of 36 Fifth Street suggested that the Governing Body with regard to the procedures for a vacation request include that when a request is made and esrow fees have been paid that the borough attorney and borough engineer automatically do a report.

Fran Benson of South Bay Avenue – questioned the status of the Bridge Project.

Mayor O'Neil stated that he read in the newspapers that NJDOT is looking to meet with the Governing Body's of Highlands and Sea Bright to try and show us why the bridge has to be taken down.

Fran Benson stated that she spoke with Sea Bright and they will be contacting us soon to set up those meetings. NJDOT has not contacted the Borough of Highlands yet to set up any meeting.

Fran Benson stated that it just feels as if we are just sitting back and waiting for things to happen and it seems that any community input is in vain.

Mayor O'Neil stated that Councilman Urbanski stated that he saw people down there taking pictures for the past two weeks.

Fran Benson stated that there have been things in the newspaper stated that the bridge is definitely unsafe.

Miss Thomas stated that Sea Bright will be having an outside engineer inspect the inspection.

Unidentified Woman questioned if the State has gone out for bids for the bridge project.

Miss Thomas – they are not getting bids.

Mayor O'Neil – we have joined with Sea Bright in getting an Attorney and in theory we have a chance to sit and talk and have things proven to us. We just need to keep an open mind and get the facts.

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Matthew Devine of 29 Gravelly Pt Road stated that he is representing Gravelly Point Beach Association and they want to follow up on the Municipal Services Contract that they have been waiting for.

Mayor O'Neil stated since there isn't a Borough Administrator it really hasn't gone any further.

Matthew Devine stated that he made copies of the bills that have been submitted to the borough twice for reimbursement. He then gave Mrs. Flannery another copy of the invoices and stated that the invoices total \$2,950.00 and that is for 2006 and six months of 2005. They have not been paid since 2003 and that's only because the town hasn't provided them with a Municipal Services Contract. He then submitted a copy of the State Statute pertaining to Municipal Service Contracts.

Mayor O'Neil stated that the bills for last year are good.

Matthew Devine stated that the bills were submitted twice before the town lost them, so its not like the bills were never submitted, they were submitted and he is not looking to go back to 2003 but he would like to be reimbursed for what was submitted.

Carla Cefalo-Braswell – so, if the borough doesn't give Gravelly Point Condo Association a Municipal Services Agreement then they are out the money?

Mayor O'Neil – for 2005 or so, I would have to say yes.

Carla Cefalo-Braswell – but we have been asking for the agreement since 2003.

Mayor O'Neil – explained that he is not sure.

Mr. Manco stated that the difficulty is that if the monies were not appropriated then the monies are not there. So what we need to do is set up a meeting to work out the agreement, if we can do that in the next 30-days.

Mr. Devine – is the town supplying any other contracts with other condo associations?

Mayor O'Neil – yes there are. He then stated the old Borough Administrator handled the agreements, not the Borough Attorney.

Miss Callahan of 29 South Bay Avenue questioned the Borough Attorney as to if he is not interested in the Bridge Project.

Mr. Manco explained that the idea was to try and pull resources together on this issue.

Miss Callahan continued to talk about the bridge project with the Governing Body.

Spencer Adler suggested that rather than to take it upon your own shoulders to suddenly become engineers that the Borough state that they are deferring to what ever the Historic Sites Council's decides. He continued to speak to the Governing Body about the Bridge Project. He then questioned if the Council supports a four lane highway in Sea Bright.

Mayor O'Neil – stated that he has not heard of a four land highway through Sea Bright.

Spencer Adler suggested that the Governing Body contact the engineering firm that did a presentation last night regarding the bridge. He then questioned the information that is coming from DOT and stated that Chris _____ has stated things that were published in the Asbury Park Press like the \$50 million dollars of repairs will only buy 10 more years

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of life for the bridge which he further explained.

Miss Thomas stated that the Borough will be prepared when attending bridge meetings.

Spencer Adler then read a statement to the Governing Body which stated that he is an Attorney but not representing anyone in this room. The Borough has hired a Specialist Attorney Janine Bauer which is a step that he supports. However, its also important to be clear that she is representing the interest of the Mayor's and the Council's but she has not been hired to represent the actual property owners per say. On some aspects of this matter such as the question if here like in Mantoloking the properties with views loose that loose 20% of their value there may be a future property assessment challenges that the residents have to go through.

Mayor O'Neil – Ms. Bauer is representing the people of this Borough, not the Mayor and Council.

Spencer Adler – there may be rights that property owners forever may be loosing by not standing together and getting an Attorney who is a Specialist in this type of work in there at the table which he further explained.

Maureen Kraemer stated that her concern with some of the things that were in the paper like shutting the bridge down. She then expressed her concerns with what is going on with the Bridge Project. She feels that the Borough should have more of a voice and she does not feel that this is happening.

Ms. Callahan stated that she is so afraid that the Bridge Project is just going to go out for bid.

Miss Thomas explained that they are not going out for bid because they don't have permits and before they get permits we will have additional Steering Committee Meetings.

Roberta McEntee of Fifth Street stated that she was at the last DOT Meeting and she stated that she asked if they will need a higher approach to the proposed bridge and someone at the meeting said that no, there is a plenty of room there for a 65 foot high bridge to approach. The lady from the DOT said no, there isn't we will probably have to take some property up on Highway 36.

Chris Francy of 36 Fifth Street – stated that on January 25th the Coast Guard requested comments, has anyone heard what the Coast Guard got?

Miss Thomas explained that Highlands got a great response and she forwarded over thirty letters to the Coast Guard and basically they did go ahead with their permit.

Spencer Adler stated with regard to them going out to bid for the bridge, something was published last week and his understanding is that that process may have already started.

William Eaton, Esq. representing Paradise Park Homeowners Association stated that he is here regarding the ordinance that was introduced this evening. He then asked all residents in opposition of the ordinance for Paradise Park to stand and about 40 people stood up. He stated that Lori Dibble, President of the Association is not here this evening because her mother recently passed away but she did send a letter which was submitted to the Council. He then expressed their opposition to the proposed zoning ordinance amendments to Paradise Park. He stated that by introducing this tonight and have the Planning Board review it tomorrow is not fair, it's not enough time.

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He then requested that the Borough adjourn the February 21st hearing until March 21st.

Maureen Kraemer of 200 Portland Road questioned why Mr. Urbanski left the table when the Council introduced the Zoning Ordinance Amendments this evening.

Mr. Urbanski explained his conflict on this matter.

Mr. Caizza offered a motion to postpone the public hearing on the Zoning Ordinance to March 21st but the motion failed for lack of a second.

Mr. Eaton expressed his objections to Mr. Urbanski not being able to participate in the seconding Mr. Caizza's motion and participating in the ordinance.

Steve Cassidy of 7 King Street asked why the Council won't separate Mr. Urbanski's issues so that he can participate in the rest of the ordinance.

Mayor O'Neil – no.

Miss Thomas explained that the borough has spent over \$25,000 on this ordinance and the fact is this is a basic thing to implement the Master Plan and if we separate the ordinance we can spend another \$25,000.

Mr. Urbanski stated that the council decided not to separate the ordinance.

Don Manrodt of 268 Bayside Drive spoke about Mr. Manco's opinion of having Councilman Urbanski's step down on this matter and expressed his opposite opinion of that.

Mr. Manco explained his legal opinion of Mr. Urbanski's conflict.

Mayor O'Neil offered a motion to adjourn the meeting, seconded by Mr. Nolan and all were in favor.

The Meeting adjourned at 10:12 P.M.

CAROLYN CUMMINS, DEPUTY CLERK

