

**MAYOR AND COUNCIL  
REGULAR MEETING  
APRIL 4, 2007**

Mayor O'Neil called the meeting to order at 7:22 P.M.

Mrs. Flannery read 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 Times. 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  
Dominick Manco, Esq., Borough Attorney  
Stephen Pfeffer, CFO

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**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. **Contracts:** T & M Request for Fee Adjustment - Fire House  
T & M Contract Proposal - Community Center Plgrnd  
T & M Proposal Proposal - I/I Physical Investigation  
Contract for Communication Center
2. **Litigation:** Highlands Bridge Replacement
3. **Personnel:** Edward O'Neil Grievance  
Borough Administrator  
Police Dept. Approp Auth Letter from Mr. Clarks Office  
Recreation Employees  
Substandard Housing Committee - Need for Member

**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:

4. Deals with collective bargaining, including negotiation positions.
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.

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Seconded by Mr. Nolan and approved 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

The Governing Body then entered into Executive Session.

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Mayor O'Neil called the Regular Meeting back to order at 8:45P.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  
Dominick Manco, Esq., Borough Attorney  
Stephen Pfeffer, CFO

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**Ordinance, 2<sup>nd</sup> Reading and P.H.**

**Ordinance O-07-06**

Mrs. Flannery read the title of Ordinance O-07-06 for the second reading and public hearing.

Mr. Urbanski left the meeting table due to a conflict on this Ordinance.

Mayor O'Neil opened up the Public Hearing on Ordinance O-07-06.

Art Gallagher of Linden Avenue questioned the Planning Board recommendations for changes to the ordinance.

Greg Vella, Esq., Borough Attorney – no, there have been no changes which he further explained to Mr. Gallagher.

Art Gallagher of Linden continued to question Mr. Vella about the language in the ordinance that pertained to relocation cost.

Mr. Vella explained that the language is copied from the State Statute with regard to relocation.

Paul Mazzella of 330 Shore Drive expressed his concerns with the parking requirements of the fitness use that is being proposed in this ordinance which he feels are insufficient. He then questioned the study process of this parking requirement.

Marty Truscott, P.P. of T & M Associates responded to his questions about the parking requirements for the fitness use and described how the study process of this parking requirement.

Paul Mazzella requested that the Council take a closer look at the proposed fitness use parking requirements, to do a better study of that and to come up with a number that is fair and that will prevent problem and he believes that the 175 number is more appropriate for that.

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Mike Knox of 22 Fourth Street – advised the Council that Mr. Mazzella is a competitor and he stated that we are looking for the same deal that Mr. Mazzella has with Middletown which is five car parking per 1,000 square feet. Mr. Mazzella held up the Zoning Board for 16-months and he cost everybody in this room money because he filed litigation against the Zoning Board which he further explained. He stated that he is going to build an athletic club up there and we are going to pay more taxes.

Paul Mazzella – it's not about being a competitor. He has a problem with someone going in and getting it below the parking standards that are required.

Mr. Vella stopped the conversing between Mr. Knox and Mr. Mazzella because he did not want them talking any about possible future variance applications.

Lori Dibble of 32 Paradise Park thanked the Council for addressing a loop home in the Mobile Home Protection Act.

There were no further questions or comments from the public therefore the Mayor closed the public hearing on Ordinance O-07-06.

Mrs. Flannery stated that this ordinance was published in summary in the Asbury Park Press on March 23, 2007 and is on for adoption at this time. She then read the title of Ordinance O-07-06 for adoption.

Mr. Nolan offered the following Ordinance and moved on its adoption and authorized its publication according to law:

**ORDINANCE NO 07 -06  
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**

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**ARTICLE III ADMINISTRATIVE PROCEDURES**

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- 21-10 Meetings of the Planning Board and Board of Adjustment
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- 21-21 Conflicts of interest
- 21-22 Lack of quorum
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- 21-27 Powers
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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]):

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**“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 that 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.”**

**“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**

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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 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.”

“HEALTH AND FITNESS ESTABLISHMENTS – An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers. This use will include athletic clubs.”

“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 “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



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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.

#### 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.

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**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.”

**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.

a. 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.

b. 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

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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.”

**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.”

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**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 21-65N (Off-Street Parking) 4.a. is hereby amended and supplemented to add the following:

“Health and fitness establishments – one space per 200 square feet of gross floor area.”

**SECTION 22**

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

“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”

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**SECTION 23**

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 24**

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 25**

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
- 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:

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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

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.”

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**SECTION 26**

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

**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.

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(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
- 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.



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**SECTION 27**

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 28**

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]):

“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 29**

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 Clubs only on lots fronting on Route 36 in the Highway Oriented Business Zone District.”

**SECTION 30**

§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.

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

- (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 31**

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

Restaurants

Commercial recreation, indoor or outdoor

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**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 32**

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
  - a. Wireless communication facilities.
4. Area and Bulk Requirements, as shown in Schedule I.”

**SECTION 33**

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 34**

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

**“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

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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
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.

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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.
15. Any approval for development in the MXD Zone, which results in the retirement of the Mobile Home Park or the removal of any residents of the Mobile Home Park shall contain a condition that the applicant shall provide proof, to the satisfaction of the Board of Original Jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21. Although N.J.S.A. 46:8C-21 is invoked by an application for one or more variance(s), the requirements of N.J.S.A. 46:8C-21 shall apply to the aforementioned circumstances regardless of whether or not the application requires one or more variance(s). For purposes of this Ordinance, 'adequate private residential facilities and circumstances' shall share the definition of 'comparable housing or park site' as provided in N.J.S.A. 2A:18-61.7(a). An applicant must provide proof of compliance with Section 15 to the Board of Original Jurisdiction prior to obtaining Final Approval. This Section is not severable from the other provisions of the Ordinance and the zoning of the property to the MXD Zone is conditioned upon the above relocation provision.

**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

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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:

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.

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15. No townhouse dwelling unit shall be less than twenty-four (24) feet wide.
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:

- 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.

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- 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 35**

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

“5. Reserved.”

**SECTION 36**

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 37**

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.

(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 38**

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



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“ B. Reserved.”

**SECTION 39**

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 40**

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 41**

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 42**

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.”

**SECTION 43**

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 44**

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:

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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 45**

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**

**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.



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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 applicant                         | No charge to                                     |
| 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.
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

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53.4. Inspection fees shall be five percent (5%) of the cost of improvements, with a minimum of \$500.00.”

**SECTION 46**

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 47**

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 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.

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- 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.
- 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.

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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.]**T**. 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 48**

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

"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 49**

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 50. 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 51 Repealer.**

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

**SECTION 52. 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

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7. Zoning Official

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

Seconded by Mayor O'Neil and adopted on the following roll call vote:

**ROLL CALL:**

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

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

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# APPENDIX A SIGNAGE DESIGN GUIDELINES

ZONING MAP

BULK CHART

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## **APPENDIX B**

# **BUILDING HEIGHT ILLUSTRATION**

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Mr. Urbanski returned to the meeting table.

**Consent Agenda: Resolutions**

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

Mr. Nolan offered the following resolution and moved its adoption:

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

**R-07-56**

**RESOLUTION AMENDING RESOLUTION 06-152  
AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR  
PROFESSIONAL LABOR RELATIONS COUNSEL  
APRUZZESE, McDERMOTT, MASTRO & MURPHY**

**WHEREAS**, the Borough of Highlands adopted Resolution R-06-152 at a meeting held on September 6, 2006 awarding the above contract to Apruzzese, McDermott, Mastro & Murphy, 25 Independence Boulevard, P.O. Box 112, Liberty Corner, New Jersey 07938 for an amount not to exceed \$30,000 plus reimbursable expenses for professional labor relations counsel; and

**WHEREAS**, ongoing labor negotiations and litigation necessitate that this contract be amended for an amount not to exceed an additional \$15,000 for professional labor relations counsel for a total contract not to exceed \$45,000 plus reimbursable expenses; and

**WHEREAS**, the Borough's Chief Financial Officer has determined and certified in writing that the value of the contract will exceed \$17,500; and

**WHEREAS**, Apruzzese, McDermott, Mastro & Murphy has completed and submitted a Business Entity Disclosure Certification which certifies that Apruzzese, McDermott, Mastro & Murphy has not made any reportable contributions to a political candidate, local party committee or candidate committee in the Borough of Highlands in the previous year and that the contract will prohibit Apruzzese, McDermott, Mastro & Murphy from making any reportable contributions through the term of the contract; and

**WHEREAS**, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands as follows:

Appropriation Reserve:  
Legal 1070-3755 \$15,000

-----  
Stephen Pfeffer, Chief Financial Officer

**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 Governing Body of the Borough of Highlands as follows:

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Apruzzese, McDermott, Mastro & Murphy are hereby retained to provide professional labor relations counsel as described above for an additional amount not to exceed \$15,000 for a total contract not to exceed \$45,000 plus reimbursable expenses.

The 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 persons authorized by law to practice a recognized profession.

A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.

The Borough Clerk is hereby directed to publish notice of this award as required by law.

Seconded by Mr. Urbanski 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

**R-07-57  
RESOLUTION – CHANGE ORDER #5  
M & R MECHANICAL CONTRACTORS, INC.  
INCREASE OF \$9,983.09  
CONSTRUCTION OF A NEW FIREHOUSE**

**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
R-07-38	February 7, 2007	\$ 5,078.98

**WHEREAS**, change order # 5 dated March 19, 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 \$9,983.09 is hereby authorized for Construction of a New Firehouse. The contract is hereby amended to \$1,767,594.70.

Seconded by Mr. Urbanski 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

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Mr. Nolan offered the following Resolution and moved its adoption:

**R-07-58**

**RESOLUTION AUTHORIZING THE AWARD OF CONTRACTS WITHOUT  
PUBLIC BIDDING PURSUANT TO THE PROVISIONS OF N.J.S.A. 40A:11-6  
HIGHLANDS FIRE DEPARTMENT LADDER TRUCK**

**WHEREAS**, there was an emergency condition as arisen with respect to operation of the ladder function of the Highlands Fire Department Ladder truck 17-90 per the March 27, 2007 letter prepared by the William Kane, Fire Chief, of the Borough of Highlands Fire Department; and

**WHEREAS**, Van Hydraulics, Inc. has been authorized to repair the ladder function of Ladder truck 17-90 at an estimated cost of \$12,000 without public bidding or quotes pursuant to the provisions of N.J.S.A. 40A:11-6 and;

**WHEREAS**, provisions of N.J.S.A. 40A:11-6 permit the Borough to award contracts without public bidding or quotes when an emergency affecting the health, welfare and safety of the public requires the immediate performance of services; and

**WHEREAS**, the Mayor and Governing Body have declared this situation an emergency condition affecting the health and safety of the public;

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that authorization be and is hereby given to Van Hydraulics, Inc. to repair the ladder function on the Highlands Fire Department ladder truck 17-90 without public bidding pursuant to the provisions of N.J.S.A. 40A:11-6. Other goods and services as required are also authorized to repair ladder truck 17-90 pursuant to the provisions of N.J.S.A. 40A:11-6..

Seconded by Mr. Urbanski 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**

Mr. Nolan offered the following resolution and moved its adoption:

**R-07-59**

**RESOLUTION AMENDING PARKING REGULATIONS**

**WHEREAS**, the Borough of Highlands has been requested to amend parking regulations along the Southerly 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 southerly side, running along the southernmost (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 east of pole # BT 90067HB, and ending at a point one hundred ninety feet east of pole # BT 90067HB.

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

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**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 and necessary steps to promulgate the aforesaid parking restrictions, in accordance with applicable state law.

Seconded by Mr. Urbanski 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

Mr. Nolan offered the following Resolution and moved its adoption:

**R-07-60**

**RESOLUTION AUTHORIZING THE APPLICATION FOR THE 2007 SUMMER  
FOOD PROGRAM**

**WHEREAS**, the Mayor and Council of the Borough of Highlands have reviewed the material received from the State of New Jersey regarding the 2007 Summer Food Service Program; and

**WHEREAS**, the Mayor and Council of the Borough of Highlands agree that the Borough's participation in the Summer Food Program will be of benefit to the Borough and its residents;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the CFO and the Director of Recreation be and hereby are authorized to make application to the State of New Jersey for the 2007 Summer Food Program for the amount of \$12,375.15.

Seconded by Mr. Urbanski 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

Mr. Nolan offered the following Resolution and moved its adoption:

**R-07-61**

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES  
BASIN 2 SANITARY SEWER I/I PHYSICAL INVESTIGATION  
T & M ASSOCIATES**

**WHEREAS**, the Borough of Highlands has a need for professional engineering services for the Basin 2 Sanitary Sewer I/I Physical Investigation as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, such professional engineering services can only be provided by licensed professionals and the firm of T & M Associates, Eleven Tindall Road, Middletown, N.J. 07748-2792 is so recognized; and

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**WHEREAS**, the Chief Financial Officer has determined and certified in writing that the value of the contract will exceed \$17,500; and

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$43,000.00 plus reimbursable expenses per T & M Associates proposal dated March 28, 2007 for Professional Engineering Services for the Basin 2 I/I Physical Investigation provided to the Borough of Highlands; and

**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**, T & M Associates has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

**WHEREAS**, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands as follows:

I hereby certify funds are available from Sewer Utility Operating Budget 3008-3757

-----  
**Stephen Pfeffer, Chief Financial Officer**

**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 Borough Council of the Borough of Highlands as follows:**

1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$43,000 plus reimbursable expenses.
2. The 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 persons authorized by law to practice a recognized profession.
3. A copy of the 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. Urbanski 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**

Mr. Nolan offered the following Resolution and moved its adoption:

**R-07-62**

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES  
COMMUNITY CENTER PLAYGROUND CONTRACT ADMINISTRATION  
ADMINISTRATION AND INSPECTION  
T & M ASSOCIATES**

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**WHEREAS**, the Borough of Highlands has a need for professional engineering services for the Community Center Playground Contract Administration and Inspection as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, such professional engineering services can only be provided by licensed professionals and the firm of T & M Associates, Eleven Tindall Road, Middletown, N.J. 07748-2792 is so recognized; and

**WHEREAS**, the Chief Financial Officer has determined and certified in writing that the value of the contract will exceed \$17,500; and

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$14,944.00 plus reimbursable expenses per T & M Associates proposal dated March 29, 2007 for Professional Engineering Services for the Community Center Playground Contract Administration and Inspection provided to the Borough of Highlands; and

**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**, T & M Associates has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

**WHEREAS**, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands as follows:

I hereby certify funds are available from Bond Ordinance O-07-04

-----  
**Stephen Pfeffer, Chief Financial Officer**

**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** Borough Council of the Borough of Highlands as follows:

5. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$14,944.00 plus reimbursable expenses.
6. The 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 persons authorized by law to practice a recognized profession.
7. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
8. The Borough Clerk is hereby directed to publish notice of this award as required by law.

Seconded by Mr. Urbanski 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



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Mr. Nolan offered the following Resolution and moved its adoption:

**R-07-63  
RESOLUTION AUTHORIZING TONNAGE GRANT APPLICATION**

**WHEREAS**, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102 has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

**WHEREAS**, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue to expand existing programs; and

**WHEREAS**, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

**WHEREAS**, recycling regulations imposed on municipalities certain requirements as conditions for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

**WHEREAS**, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycle and to indicate the assent of the Borough of Highlands to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations;

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the Borough of Highlands hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Reggie Robertson to ensure that the application is properly filed;

**BE IT FURTHER RESOLVED** that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purpose of recycling.

Seconded by Mr. Urbanski 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

Mr. Nolan offered the following Resolution and moved on its adoption:

**R-07-64  
RESOLUTION  
AUTHORIZING PAYMENT TO T & M ASSOCIATES  
FOR REVIEW & INSPECTIONS OF HIGHLANDS PORT HOLDINGS  
PERFORMANCE BOND ITEMS**

**WHEREAS**, in April of 2000 Highlands Port Holdings posted a Performance Bond in the amount of \$355,203.90 and a 10% cash portion \$39,467.10 for property located at Block 98 Lots 6.01, 6.02 and Block 99 Lot 14, located on Beach Blvd; and

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**WHEREAS**, there is a deficiency in the engineering inspection account for Highlands Port Holdings and a need for the Borough Engineer to review and inspect bonded items; and

**WHEREAS**, the Mayor and Council of the Borough of Highlands discussed this matter at a public meeting on October 18, 2006 and authorized T & M Associates to perform inspections and review the situation for an amount not to exceed \$1,000 and that it would be paid out of general engineering for now and later paid back to borough by reducing refund of performance bond moneys.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the Chief Financial Officer is hereby authorized to pay T & M Associates an amount not to exceed \$1,000 out of the general engineering account.

**BE IT FURTHER RESOLVED** the CFO is hereby directed to reduce any future refunds to Highlands Port Holdings for performance moneys by amount paid to T & M Associates for inspection reviews.

Seconded by Mr. Urbanski 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

Mr. Nolan offered the following Payment of Bills and moved on its approval for payment:

**RECAP OF PAYMENT OF BILLS  
04/04/07**

<b>CURRENT:</b>		\$	521,912.86
Payroll	(03/30/07)	\$	167,089.20
Manual Checks		\$	100,449.60
Voided Checks		\$	
<b>SEWER ACCOUNT:</b>		\$	1,861.36
Payroll	(03/30/07)	\$	9,470.94
Manual Checks		\$	5,683.34
Voided Checks		\$	
<b>CAPITAL/GENERAL</b>		\$	69.00
<b>CAPITAL-MANUAL CHECKS</b>		\$	
<b>WATER/CAPITAL</b>		\$	
<b>TRUST FUND</b>		\$	2,054.81
Payroll	(03/30/07)	\$	
Manual Checks		\$	
Voided Checks		\$	
<b>UNEMPLOYMENT ACCT-MANUALS</b>		\$	
<b>DOG FUND</b>		\$	53.40
<b>GRANT FUND</b>		\$	3,663.00
Payroll	(03/30/07)	\$	283.20
Manual Checks		\$	
Voided Checks		\$	

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<b>DEVELOPER'S TRUST</b>	\$	81.75
<i>Manual Checks</i>	\$	5,192.08
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 April 4, 2007**

M & R Mechanical	Firehouse #23	\$ 28,379.61
Pending Adoption of Change Order #5		
EDC Electric Corp.	Valley Street Pump Station	
	Upgrades	61,950.40 #
Total Supplemental Bill List		<u>\$ 90,330.01</u>

# Net of Mechanic's Lien of \$92,500. Will pay \$154,450.40 if Mechanic's Lien is released by FPI, Inc.

Seconded by Mr. Caizza and approved for payment 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

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**Other Resolutions**

Mrs. Flannery read the title of the following Resolution for approval:

Miss Thomas offered the following resolution and moved for its adoption:

**R-07-65  
RESOLUTION - SPECIAL ITEM OF REVENUE  
STATE OF NEW JERSEY  
CLEAN COMMUNITIES PROGRAM**

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

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

**NOW, THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Highlands hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget for the state fiscal year 2007 in the amount of \$6,602.16 which is now available from the State of New Jersey Department of Environmental Protection.

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**BE IT FURTHER RESOLVED** that a like sum of \$6,602.16 is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:	
Clean Communities Program	\$6,602.16

**BE IT FURTHER RESOLVED** that the Borough Clerk forward two (2) certified copies of the resolution to said Director for his review and approval.

Seconded by Mr. Nolan 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

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**Ordinance O-07-05**

**2<sup>nd</sup> Reading, Public Hearing, Adoption**

Mrs. Flannery read the title of Ordinance O-07-05 for the second reading and opening of the public hearing. She also stated that this ordinance was published in its entirety in the March 24, 2007 edition of the Asbury Park Press.

Mayor O'Neil opened the public hearing up for Ordinance O-07-05.

There were no questions or comments from the public; therefore Mayor O'Neil closed the public hearing on Ordinance O-07-05.

Mrs. Flannery read the title of the Ordinance O-07-05 for adoption.

Mr. Urbanski offered the following Ordinance and moved on its adoption and authorized its publication according to law:

**O-07-05**

**AN ORDINANCE OF THE BOROUGH OF HIGHLANDS PROVIDING FOR  
TEMPORARY PERMIT PARKING FOR RESIDENTS OF CERTAIN STREETS  
FOR DURING MUNICIPAL CONSTRUCTION PROJECT(S)**

**WHEREAS**, the Borough of Highlands will be commencing the Washington Avenue reconstruction project, anticipated to start in Summer 2007, which will affect parking in the vicinity of said construction.

**WHEREAS**, there has been a request that temporary permit parking be implemented on various streets in the vicinity of said project, which request has been reviewed by the Police Department and appropriate Borough Professionals and /or personnel; and

**WHEREAS**, it has been recommended that temporary permit parking along portions of Washington Avenue, Recreation Place, Cheerful Place, Marine Place be instituted while the project is under construction.

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Highlands that temporary permit parking for residents only shall be permitted along the below described roadways shall be allowed for the duration of the Washington

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Avenue Reconstruction Project:

Washington Avenue	between Bay Avenue and Marine Place
Recreation Place	between Sea Drift Avenue and Huddy Avenue
Cheerful Place	between Sea Drift Avenue and Huddy Avenue
Marine Place	between Sea Drift Avenue and Washington Avenue
Huddy Avenue	between Cheerful Place and Marine Place

- a. Parking on the above named streets or portions of said streets shall be restricted at all times to vehicles of residents, their family members and guests displaying a proper permit or placard issued by the Borough Clerk pursuant to this Ordinance
- b. These regulations shall remain in effect for the duration of the aforesaid construction project, but will in any event, expire no later than nine months from the effective date of this ordinance.

**BE IT FURTHER ORDAINED** that this ordinance shall take precedence over any conflicting portions of Chapter VII of the Revised General Code of the Borough of Highlands, entitled "Traffic" and more particularly Section 7-3.8 thereof, entitled, "Section 7-3.8 Permit Parking for Residents".

**BE IT FURTHER ORDAINED THAT** all other provisions of the aforesaid ordinances which are not expressly amended herein shall remain in full force and effect, except to the extent modified hereby.

**BE IT FURTHER ORDAINED THAT** this ordinance shall not take effect until:

1. Approval by NJDOT, if required by law.
2. Posting of proper signs as required by *NJSA 39:1-1 et seq.*
3. Publication upon adoption.

Seconded by Mr. Nolan 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

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**Committee Reports**

Mrs. Flannery stated that the Council has requested that the Committee Reports be dispensed with.

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**Highlands Bridge Project**

Mrs. Thomas read the following letter into the record.

Attn: Richard O'Neil, Mayor                      March 21, 2007

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RE: The Department of Transportation  
vs. The Borough of Highlands  
Route 36, Section 3  
Parcel 122 and 123 also known as Block 39 Lots 17, 17-01  
And Block 8 Lots 2, and 2-01

Dear Mr. O'Neil:

On July 12, 2006 the Borough of Highlands executed Agreements of Sale with the New Jersey Department of Transportation on negotiated settlements for the above captioned parcels. Subsequently we were notified that the Borough of Highlands is withdrawing its support for the project and that you will not sign the deed into the Department of Transportations as per agreements. Since you are unable or unwilling to consummate the agreements of sale with an executed deed this matter will precede to condemnation. We will request that the Superior Court transfer ownership of the affected parcel to the NJ Department of Transportation. We will also request the Court to fix monetary cost of compensation to \$2.00, the amount set forth in the agreements that you have signed.

Yours truly,

Kathy R. Frank, Esq.

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**Public Portion:**

Fran Benson of 30 South Bay Avenue questioned the Council on the next step that will be taken.

Mayor O'Neil stated that we will have to seek legal advice on this matter.

The Governing Body had a discussion about the issue of condemnation.

Fran Benson questions the tax parcels that are the subject of this letter. She also spoke about the DOT packet.

Mrs. Thomas spoke about her efforts to contact the DEP about thoughts of a draw bridge but she has not received a return call from them.

Chris Francy of 36 Fifth Street questioned the land agreements that were signed by the Borough.

Mr. Manco stated that there were two agreements and they were for one dollar a piece. He explained that there were promises and swaps that were agreed so the \$2.00 that they are referring to is not accurate.

Roberta McEntee questioned why the people were not made aware of this.

Carol Bucco of 330 Shore Drive – at the last meeting she asked if the condos were part of the down town area for bulk pick up because they have not picked up at all. Bayview Condos bulk has not been picked up and she also stated that dumpster are not being put back on the dumpster pads.

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Maureen Kraemer of 200 Portland Road questioned the condemnation process.

Mr. Manco gave a brief explanation of the process.

Maureen Kraemer wanted to know if the Council as contacted any of the surrounding towns about the bridge project because when construction starts the traffic will be diverted to surrounding towns.

Mr. Thomas stated that yes, we are working on that.

Maureen Kraemer asked if the State will be replacing our local roads after the bridge project is complete.

Mr. Urbanski – we had some leverage until we withdrew our agreement.

Unknown Woman of Portland Road stated that we its not that we don't want a bridge, it's that we want a nice bridge.

Unidentified Woman stated that the state should show us what the bridge will really look like.

Mrs. Thomas stated that the Council is trying to get the DOT to come here and give us a presentation.

Gabrielle Tarpey of 265 Shore Drive stated that since last months storm there have been a lot of trees dumped on Shore Drive on the dirt area and she requested that it be picked up.

Mayor O'Neil – yes, it can be picked up.

Roberta McEntee of Fifth Street stated that the condemned notice that is on 55 Fifth Street is causing 55-C to go up for sale, they are all selling.

Mayor O'Neil closed the public portion.

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

The Meeting adjourned at 9:58 P.M.

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**CAROLYN CUMMINS, DEPUTY CLERK**

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