

**Highlands Borough Mayor & Council Meeting Agenda**  
**Community Center**  
**22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 4, 2017, 7:00 p.m.**

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

Call to Order  
Meeting Statement  
Roll Call  
Executive Session Resolution

**EXECUTIVE SESSION: 7:00PM**

**Personnel:** Acting Payroll Clerk  
Administrator  
**Litigation:** 171 Bay Avenue  
Housing Element & Fair Share Plan  
**Contract Negotiations:** Architect Primary Report

**REGULAR MEETING: 8:00PM**

Call to Order  
Pledge of Allegiance  
Roll Call

**Approval of Minutes**  
**September 20<sup>th</sup> 2017**

**Public Comment on Resolutions**

**Consent Agenda**

R-17-167 Authorize Payment of the Bills  
R-17-168 Authorize Refund of Tax Overpayment  
R-17-169 Accept Resignation of Administrator

**Resolutions**

R-17-165 Person to Person Transfer of Liquor License

**Ordinances: Introduction**

O-17-18 Regulation of Retail Food Establishments – Grease Trap Regulations  
O-17-19 Sidewalk Cafes  
O-17-20 Inspections by the Department of Public Works

**Other Business:**

Best Practices Checklist  
Architect Preliminary Report  
Administrator's Update

**Public Comments:**

**Adjourn**



## RESOLUTION 17-167

### RESOLUTION AUTHORIZING PAYMENT OF BILLS

**WHEREAS**, certain numbered vouchers have been submitted to the Borough of Highlands for payment from a list, prepared and dated September 29, 2017, which totals as follows:

Current Fund	\$1,080,332.37
Sewer Account	\$10,958.42
Capital Fund	\$0.00
Trust-Other	\$8,875.44
Federal/State Grants	\$671.86
Total	\$1,100,838.09

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the vouchers, totaling **\$1,100,838.09** be paid to the person[s] named, for the amounts set opposite their respective name[s], and endorsed and approved on said vouchers. An individual listing of all bills is on file in the Municipal Clerk's office for reference.



**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

## **RESOLUTION 17-168**

### **RESOLUTION AUTHORIZING REFUND OF TAX OVERPAYMENTS**

**WHEREAS**, the Tax Collector of the Borough of Highlands has reviewed the rolls and determined that certain monies are due and payable by the Borough of Highlands to certain residents and property owners within the Borough of Highlands, as a result of an overpayment of taxes, and

**WHEREAS**, the Tax Collector recommends the immediate reimbursement of the excess funds currently collected by the Borough of Highlands to certain enumerated individuals,

**NOW, THEREFORE BE IT AND IT IS HEREBY RESOLVED** by the Mayor and Council of the Borough of Highlands, in the County of Monmouth, State of New Jersey, that the Tax Collector is authorized to immediately refund and pay the overpayment of taxes and sewer fees to the individuals and property owners of the specific properties listed below, and attached hereto:

**TAXES**

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>YEAR</u></b>	<b><u>AMOUNT</u></b>	<b><u>NAME</u></b>
94	10	2014	\$ 506.16	Parker, Patricia & David



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## RESOLUTION 17-169

### RESOLUTION ACCEPTING RESIGNATION OF BOROUGH ADMINISTRATOR

WHEREAS, by way of Resolution R-16-120, Brian Geoghegan was appointed to serve as the Borough Administrator for a two (2) year term set to expire on May 31, 2018; and,

WHEREAS, by way of correspondence dated September 26, 2017, Brian Geoghegan submitted a letter of resignation from his position as the Borough Administrator with thirty (30) days' notice effective October 26, 2017.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Borough hereby accepts the resignation of Brian Geoghegan from his position as the Borough Administrator and wishes him well in his future endeavors.



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## RESOLUTION 17-165

### PERSON TO PERSON TRANSFER OF LIQUOR LICENSE 1317-33-012-004

WHEREAS, an application has been filed for a Person to Person transfer of Plenary Retail Consumption License 1317-33-012-004, from Dan-Rob Restaurant Associates, LLC., trading as Windansea, to SmokeNMirrors LLC, trading as The Proving Ground, for the premise located at 56 Shrewsbury Avenue, Highlands; and,

WHEREAS, the submitted application form is complete in all respects, as outlined in N.J.S.A.33: 1-1 et seq., an Affidavit of Publication has been received by the Municipal Clerk and the transfer fees have been paid; and,

WHEREAS, the Highlands Police Department has investigated the applicant and the source of all funds to be utilized in connection with the purchase and operation of the business, and the results meet ABC standards; and,

WHEREAS, the location meets ABC and Municipal requirements; and,

WHEREAS, a Tax Clearance Certificate has been received from the Division of Taxation; and,

WHEREAS, the applicant is qualified to be licensed per Title 33 of the New Jersey Statutes and all rules and regulations promulgated there under, in addition to pertinent Borough Ordinances,

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Highlands, County of Monmouth, State of New Jersey approves the Person to Person Transfer of the Plenary Retail Consumption License numbered 1317-33-012-004, from Dan-Rob Restaurant Associates, LLC., trading as Windansea, to SmokeNMirrors LLC, trading as The Proving Ground, for the premises located at 56 Shrewsbury Avenue, Highlands. This transfer will be effective on \_\_\_\_\_.



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## ORDINANCE 0-17-18

### AN ORDINANCE AMENDING CHAPTER 16-3 OF THE BOROUGH CODE CONCERNING THE REGULATION OF RETAIL FOOD ESTABLISHMENTS

WHEREAS, Borough Code Chapter 16, Section 3 regulates retail food establishments, providing for the inspections of such establishments and fixing penalties for violations therein; and

WHEREAS, the governing body of the Borough of Highlands has determined that it is in the best interest of the residents to amend and update the aforesaid Code provision with respect to the regulations pertaining to inspections of retail food establishments and the enforcement therein, more specifically as it pertains to grease traps.

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

#### SECTION I.

The following Sections of Chapter 16, Section 3 entitled "Retail Food Handling Establishment Code" of the Borough Code shall be amended to provide as follows: (All additions are shown in **bold italics with underlines**. The deletions are shown as ~~strikeovers in bold italics~~. Sections of Chapter 16, Section 3 that will remain unchanged are shown in normal type.)

#### 16-3 RETAIL FOOD HANDLING ESTABLISHMENT CODE.

##### 16-3.1 Code Established.

A code regulating retail food handling establishments, providing for the inspection of such establishments and fixing penalties for violations as hereby established pursuant to R.S. 26:3-69.1 to 69.6. A copy of the code is annexed hereto and made a part hereof without inclusion of the text thereof herein.

##### 16-3.2 Title of Code.

The code established and adopted by this section is described and commonly known as the "Retail Food Handling Establishment Code of New Jersey, 1965", and any amendments thereto.

##### 16-3.3 Public Record.

Three copies of the Retail Food Handling Establishment Code of New Jersey, 1965, have been placed on file in the borough clerk's office for the use and examination of the public.

#### 16-3.4 Permit and License.

a. *Required; Posting of License.* No person shall operate a retail food handling establishment unless a certificate or approval of an existing certificate, permit or license to operate same is issued. Such certificate or approval of an existing certificate, permit or license shall be posted in a conspicuous place in such establishment.

b. *Fee.* There shall be a charge of five (\$5.00) dollars for such certificate or approval of an existing certificate, permit or license.

c. *Expiration.* Certificates issued or approved under the provisions of this chapter shall expire annually on December 31 and application for renewal thereof shall be submitted together with the required fee prior to January 1 of each year.

d. *Itinerant License.* A person conducting an itinerant retail food handling establishment shall secure a certificate or if such person is the holder of a certificate, permit or license issued by the board of health or governing body of another jurisdiction, the certificate, permit or license may be approved by the council and there shall be a fee of five (\$5.00) dollars charged for approval.

e. *Suspension and Revocation.* A certificate or approval of certificate, permit or license, may be suspended or revoked for violation by the holder of any provision of this chapter or code after an opportunity for a hearing by the council or its authorized representative.

f. *Transferability.* A certificate or approval of a certificate, permit or license issued by another board of health or borough council is not transferable.

#### 16-3.5 Grease Trap.

a. *Purpose.* The purpose of this subsection is to control discharges into the public sewerage collection system and wastewater treatment plant that interfere with the operations of the system, cause blockage and plugging of pipelines, interfere with normal operation of pumps and their controls, and contribute waste of a strength or form that either causes treatment difficulties or is beyond the treatment capability of the wastewater treatment plant.

#### b. *Definitions.*

*Food service facilities* shall mean those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, nondrinkable food product in or on a receptacle that requires washing. These facilities include restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants, or any other sewer users as determined by the plumbing subcode official who discharge applicable waste. Exempted herefrom are self-contained single-family living units.

*Grease* shall mean material composed primarily of fats, oil and grease (FOG) from animal or vegetable sources. The terms fats, oil, and grease shall be deemed as grease by definition. Grease does not include petroleum based products.

*Grease trap* shall mean a device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system.

*Oil/water separator* shall mean an approved and industry standard system that is specifically designed and manufactured to separate oil from water. The system shall allow the oil to be collected and removed on a regular basis as to prevent it from being discharged into the wastewater collection system. Only oil/water separators manufactured for that specific operation will be approved. Adequate support literature from the manufacturer will be required so as to allow a proper review by the plumbing subcode official.

*User* shall mean any person or establishment including those located outside the jurisdictional limits of the borough who contributes, causes, or permits the contribution or discharge of wastewater into the borough's wastewater collection or treatment system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

c. *Control Plan for (FOG) and Food Waste.*

1. Any new construction, renovation, or expansion of food service facilities shall be required to submit to the borough a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.

2. Any existing food service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this subsection. There will be no "Grandfathering."

d. *General Criteria.*

1. *Installation Requirements.* All existing, proposed, or newly remodeled food service facilities inside the Borough of Highlands wastewater service area shall be required to install, at the user's expense, an approved, properly operated and maintained grease trap.

2. *Sanitary Sewer Flows.* Sanitary sewer flows from toilets, urinals, lavatories, etc. shall not be discharged into the grease trap. These flows shall be conveyed separately to the sanitary sewer service lateral.

3. *Floor Drains.* Only floor drains which discharge or have the potential to discharge grease shall be connected to a grease trap.

4. *Garbage Grinders/Disposers.* It is recommended that solid food waste products be disposed of through normal solid waste/garbage disposal means. If a grinder/disposal is used it must be connected to the grease trap. The use of grinders is discouraged since it decreases the operational capacity of the grease trap and will



require an increased pumping frequency to ensure continuous and effective operation.

5. Dishwashers. Commercial dishwashers must be connected to the grease trap. Dishwashers discharge soap and hot water which can melt grease and allow it to pass through an undersized grease trap. Traps must be sized accordingly to allow enough detention time to allow water to cool and grease to solidify and float to the top of the trap.

6. Location. Grease trap shall be installed outside the building upstream from the sanitary sewer service lateral connection. This will allow easy access for inspection, cleaning, and removal of the intercepted grease at any time. A grease trap may not be installed inside any part of a building without written approval by the plumbing subcode official.

7. Pass Through Limits. No user shall allow wastewater discharge concentration from grease trap to exceed 100 MgPL (milligrams per liter) as identified by EPA method 1664A.

e. *Design Criteria.*

1. Construction. Grease traps shall be constructed in accordance with the Borough of Highlands standards and shall have a minimum of two compartments with fittings designed for grease retention. All grease removal devices or technologies shall be subject to the written approval of the plumbing subcode official. Such approval shall be based on demonstrated removal efficiencies of the proposed technology.

2. Access. Access to grease traps shall be available at all times, to allow for their maintenance and inspection. Access to trap shall be provided by two manholes (one on each compartment) terminating at finished grade with cast iron frame and cover.

3. Load-Bearing Capacity. In areas where additional weight loads may exist, the grease trap shall be designed to have adequate load-bearing capacity. (Example: vehicular traffic in driving or parking areas.)

4. Inlet and Outlet Piping. Wastewater discharging to a grease trap shall enter only through the inlet pipe of the trap. Each grease trap shall have only one inlet and one outlet pipe.

5. Grease Trap Sizing. All grease traps shall have a capacity of not less than 1,000 gallons nor exceed a capacity of 3,000 gallons. If the calculated capacity exceeds 3,000 gallons, multiple units plumbed in series shall be installed.

f. *Grease Trap Maintenance.*

1. Cleaning/Pumping. The user, at the user's expense, shall maintain all grease traps to assure proper operation and efficiency. Maintenance of grease trap shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludge and solids. This work shall be performed by a qualified and licensed hauler. Decanting or discharging of removed waste back into the trap from which it was removed or any other grease trap, for the purpose of reducing the volume to be disposed, is prohibited. This service shall also include a

thorough inspection of the trap and its components. Any needed repairs shall be noted. Repairs shall be made at user's expense.

2. Cleaning/Pumping Frequency. The grease trap must be pumped out completely a minimum of once every four months, or more frequently, as determined by the plumbing subcode official, as needed to prevent carry over of grease into the sanitary sewer system.

3. Disposal. All waste removed from each grease trap must be disposed of at a facility approved to receive such waste in accordance with the provisions of this program. In no way shall the pumpage be returned to any private or public portion of the borough's sanitary sewer collection system. All pumpage from grease traps must be tracked by a manifest, which confirms pumping, hauling, and disposal of waste. The customer must obtain and retain a copy of the original manifest from the hauler.

4. Maintenance Log. A grease trap cleaning/maintenance log indicating each pumping for the previous 24 months shall be maintained by each food service facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the plumbing subcode official or his representative upon request.

5. Submittal of Records. Each user shall submit all cleaning and maintenance records to the plumbing subcode official. The maintenance records shall include the following information:

- (a) Facility name, address, contact person, and telephone number.
- (b) Company name, address, telephone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.
- (c) Types of maintenance performed.
- (d) Dates maintenance was performed.
- (e) Date of next schedule maintenance.
- (f) Copies of manifests.

The user shall be required to submit maintenance records to the plumbing subcode official **and to the department of public works** on a biannual basis (twice per year). Records shall be submitted by March 1 and September 1 of each year. The records shall be submitted to:

Plumbing Subcode Official  
Borough of Highlands  
**474 19** Bay Avenue  
Highlands, NJ 07732

**and**

**Department of Public Works**  
**Borough of Highlands**  
**42 Shore Drive**  
**Highlands, NJ 07732**

The plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing, and/or the department of public works**, will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing, or the department of public works**, the user shall be required to perform the maintenance and **provide** records of said maintenance within 14 calendar days. Upon inspection by the plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing** the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

g. *Additives.* Any biological additive(s) placed into the grease trap or building discharge line including, but not limited to, enzymes, commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate fats, oils, and grease shall require written approval by the plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing** prior to use. The use of such additives shall in no way be considered as a substitution to the maintenance procedures required herein.

h. *Chemical Treatment.* Chemical treatments such as drain cleaners, acid, or other chemical solvents designed to dissolve or remove grease shall not be allowed to enter the grease trap.

i. *Enforcement and Fines.*

1. *Recovery of Damages.* When the discharge from a food service facility causes an obstruction, damage, or any other impairment to the treatment works, or causes any expense, fine, penalty, or damage of whatever character or nature to the borough, the plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing** shall invoice the owner for same incurred by the borough. If the invoice is not paid, the plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing** shall notify the borough attorney to take such actions as shall be appropriate to seek reimbursement.

2. **Tampering. No food service facility may disconnect, reroute, or otherwise alter any connection to the grease trap without the written approval of the plumbing subcode official, construction official or their designees within the Department of Buildings and Housing.**

2.3. *Penalty.* A violation of this subsection is subject to the penalty provisions of Section 3-9 of the General Ordinances of the Borough of Highlands.

3.4. *Remedies Nonexclusive.* The remedies provided for in this subsection are not mutually exclusive. The plumbing subcode official, **construction official or their designees within the Department of Buildings and Housing, and code enforcement official** may take any, all, or any combination of these actions against a noncompliant person.

**j. Interfering with Inspection. No food service facility may unreasonably interfere with the inspection of its grease trap or maintenance logs. Anyone who unreasonably interferes with the inspection of a grease trap or its maintenance logs shall be subject to a fine of not more than \$250.00.**

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

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

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



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## ORDINANCE 0-17-19

### AN ORDINANCE ADDING CHAPTER 4-14 OF THE BOROUGH CODE CONCERNING THE LICENSING OF SIDEWALK CAFES

WHEREAS, the Borough of Highlands wishes to promote a positive environment for economic development within its commercial zones, while ensuring its peace, safety, and accessibility; and

WHEREAS, the governing body of the Borough of Highlands has determined that it is in the best interest of the residents and businesses alike to add the aforesaid Code provision with respect to the licensing of sidewalk cafés.

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

#### SECTION I.

Chapter 4, Licensing-General, is hereby amended by adding Section 4-14 entitled "Sidewalk Café Licenses" to read as follows:

#### 4-14 Sidewalk Café Licenses

##### 4-14.1 Definitions

- a. Adjacent Building – The building whose principal façade fronts on the sidewalk where the sidewalk café is or is proposed to be located.
- b. Principal Façade – That portion of the façade of a building which fronts on a street.
- c. Required Pedestrian Passageway – The area of sidewalk, parallel to the principal façade, unobstructed by trees and light poles, trash receptacles and similar structures.
- d. Retail Food Establishment – The establishment actually located within the Adjacent Building which serves food and drink, and shall include, by way of example, a restaurant, hotel, coffee shop, tearoom, dining room, cafeteria, luncheonette, soda fountain, sandwich shop, delicatessen and the like.
- e. Sidewalk Café - The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of a restaurant or Retail Food Establishment preparing food and beverages on premises. It shall consist of tables and chairs set in front of the restaurant or retail establishment.

#### 4-14.2 Annual License Required

No person shall establish, maintain or operate in or upon any public area as defined herein any sidewalk café or otherwise serve food or beverages in any public area as defined herein without first obtaining a license from the Borough Clerk or duly authorized representative of the Clerk.

#### 4-14.3 Initial Application

- a. Applicants submitting an initial application for a sidewalk café shall submit the following documents:
  1. A completed application form to be issued by the Borough Clerk and available through the Clerk's Office and on the Borough's website.
  2. A copy of the restaurant's certificate of liability insurance.
  3. A letter of consent from the property owner stating that the restaurant and its operator, by name, are permitted to operate a sidewalk cafe in front of the property.
  4. A signed and notarized indemnification agreement pursuant to section 4-14.6.
  5. Scale drawings of the proposed sidewalk cafe by a licensed architect or engineer and photos of the property.
    - i. All buildings, trees and street furniture within 10 feet of the proposed cafe must be included in the plans.
    - ii. All tables, chairs and accessory equipment must also be shown.
    - iii. All proposed temporary structures, equipment and apparatus to be used in connection with its operation, including provisions for the storage of such structures, equipment and apparatus, proposed signage and the location of any fire hydrant, plug or standpipe, utility pole, or other permanent fixture between the adjacent building and the curb must also be shown.
    - iv. The application shall include a clear indication of the presence of the required pedestrian passageway. The application shall demonstrate that pedestrian traffic along the sidewalk upon which the sidewalk cafe is proposed to be located will in no way be impeded.
  6. A statement of the seating capacity of the proposed sidewalk café and of the existing Retail Food Establishment actually operated by the applicant in the adjacent building.
- b. Copies of the initial application shall be submitted to the Borough Clerk, Zoning Officer, Constructing Official, Fire Department, and Police Department.
- c. Applicants submitting an initial application shall pay the initial application fee of \$250 to the Borough Clerk.

- d. The Borough Clerk shall either approve or deny the application after consulting with the Zoning Officer, Fire Department, and Police Department. Such determination shall be made within twenty (20) days of receipt of the application.

#### 4-14.4 Renewal Application

- a. Applicants who were granted a sidewalk café license in the immediately preceding year may, and whose sidewalk café license was not revoked, may submit a renewal application (available through the Clerk's Office and on the Borough's website) if there is no change to the applicant's proposed sidewalk café.
- b. Applicants requesting a renewal license must submit an updated copy of the restaurant's certificate of liability insurance.
- c. Applicants requesting a renewal license must submit an updated letter of consent from the property owner stating that the restaurant and its operator, by name, are permitted to operate a sidewalk cafe in front of the property.
- d. Applicants requesting a renewal license must submit an updated indemnification agreement pursuant to section 4-14.6.
- e. The Borough Clerk shall either approve or deny the application after consulting with the Zoning Officer, Fire Department, and Police Department. Such determination shall be made within twenty (20) days of receipt of the application.

#### 4-14.5 Insurance Required

- a. The following wording must appear on the insurance certificate:
  - "The certificate holder (Borough of Highlands) is included as an additional insured with respect to losses arising solely from the operation of the sidewalk café."
- b. Ten (10) days' written notice of cancellation must be provided to the Borough.
- c. Insurance in force must be written by a company licensed to do business in the State of New Jersey.
- d. Minimum coverage requirements are:
  - 1. General aggregate – one million dollars;
  - 2. Products and completed operation aggregate – one million dollars;
  - 3. Personal and advertising injury – one million dollars;
  - 4. Each occurrence – one million dollars;
  - 5. Fire damage (any one fire) – fifty thousand dollars;
  - 6. Medical expense (any one person) – five thousand dollars;
  - 7. Workmen's compensation – Statutory requirements;

8. Employers liability – one hundred thousand dollars (each Accident) five hundred thousand dollars (Disease – policy limit) one hundred thousand dollars (Disease – each employee)

#### 4-14.6 Indemnification

The applicant must provide this statement as a separate signed notarized agreement:

"The licensee shall indemnify and hold harmless the Borough of Highlands and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the sidewalk cafe, providing that such claims, damages, losses or expenses (1) are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and (2) are caused in full or in part by a party indemnified hereunder."

#### 4-14.7 Regulations

- a. The sidewalk café shall be operated and maintained in accordance with the application as finally approved, and by the same person who operated and maintains the Adjacent Building.
- b. No portion of the sidewalk café shall project or protrude into any Required Pedestrian Passageway. The Required Pedestrian Passageway shall be at least four (4) feet wide for the entire frontage of the Adjacent Building.
- c. The sidewalk café shall be located no further than fifteen (15) feet from the Adjacent Building.
- d. The sidewalk café shall be partitioned from the Required Pedestrian Passageway by a movable structure or structures, which shall be no less than 36 inches and no more than 48 inches high.
- e. The sidewalk café shall be located between the Principal Façade of the Adjacent Building and the Required Pedestrian Passageway.
- f. Any umbrellas or awnings shall be at least seven (7) feet from the ground.
- g. No sidewalk café shall be permitted in a parking lot.
- h. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the Adjacent Building.
- i. The sidewalk café partition and overhead covering shall be appropriate in style to the Principal Façade of the Adjacent Building and shall not contain advertising.



- j. Live music, speakers, or sound amplification devices shall not be permitted in a sidewalk café.
- k. The operation of the sidewalk café shall not significantly impact the parking or facilities available to the Adjacent Building.
- l. The entire sidewalk café area and the Required Pedestrian Passageway must be maintained by sweeping or washing daily or more frequently, as needed, by the licensee. Trash receptacles shall be provided as required and approved by the Borough. If no table service is provided, the trash receptacles shall include those needed for recycling.
- m. The licensee shall repair any damage to the sidewalk café area.
- n. The sidewalk café shall be permitted to operate in the B-1 and B-2 zones and only from 6:00 a.m. until 10:00 p.m. during the months of April to October, inclusive.
- o. Applicants seeking to establish a sidewalk café in any zone other than the B-1 and B-2 zones must first obtain approval from the Zoning Board. Such approval shall not create any right to establish a Sidewalk Café, and the applicant must still apply for a license under this section.
- p. Smoking shall not be permitted within a sidewalk café.

#### 4-14.8 Alcoholic Beverages

- a. Retail Food Establishments which hold a liquor license, and who wish to extend service to the sidewalk cafe, shall have completed a "Place to Place/Expansion of Premises" application with the Alcoholic Beverage Control Board. Licensees not covered for the sidewalk area shall not be permitted to serve alcoholic beverages in the sidewalk cafe.
- b. Sidewalk cafes that permit patrons to bring their own beer or wine shall adhere to all laws governing B.Y.O.B. as set forth in N.J.S.A. Title 33, N.J.A.C. 13:2.
- c. Alcoholic beverages, when permitted under this article, shall not be served or consumed on any sidewalk or any other public area which is outside the partitioned area of the sidewalk café.

#### 4-14.9 Violations and Penalty

- a. Any person violating any of the provisions of this section shall, upon conviction, be liable to the penalty state in Chapter 1, Section 1-5.

- b. Any person violating this section who has been granted a sidewalk café license may, upon conviction, be subject to revocation of the sidewalk café license.

#### 4-14.10 Appeal

Any person aggrieved by any action of the Borough Clerk, in the denial or revocation of a sidewalk café license, shall have the right to appeal to the Borough Administrator. The appeal shall be taken by filing with the Borough Clerk, within ten days after the notice of the action complained of has been served personally upon the licensee or mailed, postage prepaid, to the licensee at the address given by the licensee, a written statement setting forth fully the grounds for appeal. The Borough Clerk shall set a time and place of hearing for the appeal, at which time the Borough Administrator shall conduct a hearing and affirm, modify or reverse the action appealed from.

Any person aggrieved by a decision of the borough administrator may make an appeal to the Mayor and Borough Council. Such appeal shall be taken by filing with the Borough Clerk within ten days after notice of the decision has been made, a written statement setting forth fully the grounds of the appeal, along with a fee of twenty-five dollars. The Borough Clerk shall set a time and place of hearing for the appeal, at which time the Mayor and Borough Council shall conduct a hearing and affirm, modify or reverse the decision appealed from.

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

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

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



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## ORDINANCE 0-17-20

AN ORDINANCE ADDING CHAPTER 2-32.7 OF THE BOROUGH CODE  
CONCERNING INSPECTIONS BY THE DEPARTMENT OF PUBLIC  
WORKS

WHEREAS, the governing body of the Borough of Highlands has determined that it is in the best interest of the residents to amend and update the aforesaid Code provision with respect to the regulations pertaining to inspections of sewer connections for food service facilities by the Department of Public Works.

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

### SECTION I.

Chapter 2, Section 32.7 of the Borough Code entitled "Inspection" shall be added to provide as follows:

#### 2-32.7 INSPECTION.

The superintendent of the department of public works or any authorized employees of the department may, at all reasonable hours, enter the premises of any food service facility (as defined in section 16-3.5) and examine the pipes, fixtures and equipment, including any grease traps, connected to the sewer services.

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

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

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