

TOWNSHIP OF MAHWAH

ORDINANCE NO. 1701

CERTIFIED TRUE COPY

*Kathleen G. Colletta*

TOWNSHIP CLERK

DATE: *4/18/12*

AN ORDINANCE TO PETITION THE HIGHLANDS COUNCIL FOR PLAN  
CONFORMANCE FOR THE PLANNING AREA

WHEREAS, the Township of Mahwah is located partially within that portion of the New Jersey Highlands Region defined by the Highlands Act, as the "Planning Area" (see definitions, below). This Ordinance is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1 et seq.), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to lands located within the Planning Area, and by Ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.

WHEREAS, by adoption of this Ordinance, the Governing Body of the Township of Mahwah establishes that the municipality shall conform its master plan, development regulations, and all other regulations applicable to the use and development of land within the Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan. Said conformance shall be in accordance with the provisions of Highlands Council approval of the municipality's Petition for Plan Conformance, which was previously submitted to the Highlands Council by Resolution adopted by the Governing Body on December 16, 2010, and which the Highlands Council approved with certain conditions by Highlands Council Resolution No. 2010-14, adopted on December 16, 2010. Further, this Ordinance specifically reserves the rights of the municipality as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

WHEREAS, the Highlands Act finds and declares that protection of the Highlands Region is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources. The Highlands Act creates a coordinated land use planning system requiring the Highlands Council to prepare and adopt a Regional Master Plan that serves to protect, restore and enhance the significant resources the Highlands Region. The Highlands Act sets forth a bifurcated system for municipal conformance with the goals, requirements and provisions of the Regional Master Plan. Pursuant to Section 14.a. of the Highlands Act, a municipality located wholly or partially in the Preservation Area was required to submit by December 8, 2009 a revised municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, to conform them with the Regional Master Plan.

WHEREAS, pursuant to Section 15.a. of the Highlands Act, for a municipality located wholly in the Planning Area or for any portion of a municipality lying within the Planning Area, the municipality may submit at any time a revised master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, that conforms with the Regional Master Plan. Plan Conformance by a municipality is strictly voluntary for lands in the Planning Area.

WHEREAS, the Township of Mahwah, having lands in the Planning Area of the Highlands Region, did submit as part of a Petition for Plan Conformance to the Highlands Council on December 8, 2009, proposed revisions to the master plan, development regulations and other regulations that relate to the development and use of land in the Planning Area. On December 16, 2010 the Highlands Council adopted Resolution No. 2010-14 approving the Township of Mahwah's Petition for Plan Conformance.

The approval was conditioned upon the Township of Mahwah's adoption of an ordinance pursuant to Section 15a of the Highlands Act, formally petitioning the Highlands Council for Plan Conformance for lands within the Planning Area.

WHEREAS, upon application of the Township of Mahwah, the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to the Township of Mahwah for the reasonable costs associated with the revision of the master plan, development regulations or other regulations, which revisions are designed to bring those plans and regulations into conformance with the Regional Master Plan. The Highlands Council shall provide grant funds for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and may also provide grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council. As Plan Conformance for lands in the Planning Area is strictly voluntary, the Township of Mahwah retains the right to withdraw that portion of the Petition relating to lands lying in the Planning Area from the Plan Conformance process at any time.

WHEREAS, this Ordinance applies to the development and use of land located in the Planning Area of the Township of Mahwah, as defined by Section 7 of the Highlands Act.

WHEREAS, for the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**Highlands Council** – means the New Jersey Highlands Water Protection and Planning Council.

**Highlands Act** – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 et seq.

**Highlands Region** means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

**Planning Area** - means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

**Plan Conformance** – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

**Preservation Area** – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

**Regional Master Plan**- means the Highlands regional master plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

NOW, THEREFORE, BE IT RESOLVED that the Township of Mahwah hereby formalizes its Petition for Plan Conformance to the Highlands Council, declaring it fully effective for

lands in the Planning Area of the municipality, said Petition having been approved by the Highlands Council subject to the conditions as set forth in Highlands Council Resolution No. 2010-14, adopted on December 16, 2010.

BE IT FURTHER RESOLVED that at any time, the Township of Mahwah may withdraw that portion of its Petition for Plan Conformance for the Planning Area. In such event, any approvals, rejections or conditions of the revised municipal master plan, development regulations or other regulations that pertain to the Planning Area, as set forth by the Highlands Council in approving Resolution No. 2010-14, will not be binding upon the Township of Mahwah. Any such withdrawal, should it occur, shall require repeal of this Ordinance, and shall be followed by formal notification to the Highlands Council, sent within ten (10) days of adoption by certified mail and including a certified copy of such repealing ordinance.

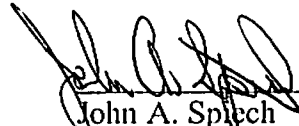
BE IT FURTHER RESOLVED that this ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

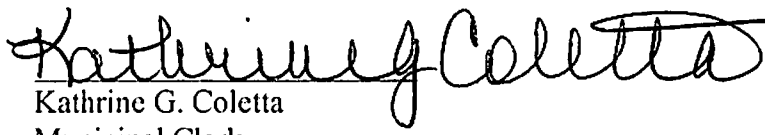
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Dated: 1/18/12

Attest

  
\_\_\_\_\_  
John A. Spiech  
Council President

  
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Kathrine G. Coletta  
Municipal Clerk

I, Kathrine G. Coletta, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 12th day of January, 2012.

  
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Kathrine G. Coletta, RMC/CMC/MMC  
Municipal Clerk