

**PLANNING BOARD OF ROCKAWAY TOWNSHIP
COUNTY OF MORRIS, STATE OF NEW JERSEY
65 MOUNT HOPE ROAD
ROCKAWY, NEW JERSEY 07866**

REEXAMINATION OF THE TOWNSHIP OF ROCKAWAY MASTER PLAN PURSUANT TO N.J.S.A. 40:55D-89 SPECIFICALLY WITH RESPECT TO THE PROVISIONS OF THE NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING ACT (N.J.S.A. 13:20-1 ET SEQ.) AND MUNICIPAL CONFORMANCE WITH THE HIGHLANDS REGIONAL MASTER PLAN, PREPARED AND PROVIDED FOR ADOPTION PURSUANT TO N.J.S.A. 40:55D-28, TO AMEND THE MASTER PLAN OF THE TOWNSHIP OF ROCKAWAY TO INCLUDE THE SUPPLEMENT TITLED, "TOWNSHIP OF ROCKAWAY HIGHLANDS MASTER PLAN ELEMENT"

WHEREAS, the Planning Board of Township of Rockaway, Morris County, State of New Jersey ("Planning Board"), was established pursuant to all requirements and provisions of the New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.); and

WHEREAS, the Planning Board adopted the current Township of Rockaway Periodic Reexamination Report of the Master Plan, Land Use Plan and Open Space Plan pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on August 21, 2006; and

WHEREAS, N.J.S.A. 40:55D-89 provides that each municipality within the State of New Jersey periodically re-examine its Master Plan policies and assumptions, zoning restrictions, and site plan and subdivision regulations, and prepare and adopt by resolution a report on the findings of such reexamination; and

WHEREAS, the Planning Board has conducted such periodic reexaminations of the Master Plan since the initial date of its adoption and adopted reports setting forth its findings of each such reexamination, in accordance with the provisions of N.J.S.A. 40:55D-89; and

WHEREAS, the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.) was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring the natural resources of the New Jersey Highlands Region, in particular the water resources, which provide drinking water to over 5 million New Jersey residents; and

WHEREAS, the Highlands Act created the Highlands Water Protection and Planning Council (the "Highlands Council") and charged it with crafting a comprehensive master plan for the New Jersey Highlands Region; and

WHEREAS, the Highlands Regional Master Plan (RMP) was adopted by the Highlands Council on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Township of Rockaway is located in the Highlands Region with lands lying within both the Preservation Area and Planning Area, as defined by section 7 of the Highlands Act; and

WHEREAS, on December 2, 2008 the Governing Body of the Township of Rockaway, held a noticed public meeting during which it adopted Resolution No. 08-159, noticing of its intent to Petition the Highlands Council for Plan Conformance with respect to the whole of the municipality, which lies within both the Preservation and Planning Areas; and

WHEREAS, the Planning Board did subsequently conduct a reexamination of the municipal master plan and land use regulations, in view of the model Highlands Master Plan Element and model Highlands Area Land Use Ordinance provided by the Highlands Council, to identify the specific changes needed to conform the municipal planning documents to the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Planning Board reexamination was assisted by preparation of detailed, draft versions of the Master Plan Highlands Element and Highlands Area Land Use Ordinance, each tailored by municipal staff and professionals, to the specific circumstances of the Township of Rockaway, providing for a comprehensive and explicit representation of the changes required to conform these documents to the Regional Master Plan; and

WHEREAS, the Planning Board reexamination was completed over the course of a four-year period, from May 2009 to July 2013, inclusive of a collaborative process with the Highlands Council specifically to ensure that all necessary master plan and regulatory provisions necessary for Plan Conformance were appropriately considered; and

WHEREAS, on August 17, 2009, the Planning Board did hold a noticed public meeting for the purpose of initiating a public discussion concerning conformance with the Regional Master Plan and the components of the municipality's Petition for Plan Conformance to the Highlands Council, including specifically, the Highlands Preservation/Planning Area Master Plan Element; and

WHEREAS, on November 4, 2009, the Governing Body of the Township of Rockaway did hold a public meeting at which it discussed conformance with the Regional Master Plan and did adopt Resolution No. 09-142 and Resolution No. 09-143 petitioning the Highlands Council for approval of its Petition for Plan Conformance, prepared with respect to the whole of the municipality, which lies within both the Preservation and Planning Areas; and

WHEREAS, on December 1, 2009 Township of Rockaway did submit the Petition for Plan Conformance to the Highlands Council; and

WHEREAS, on February 17, 2011, during a duly-noticed public hearing and following receipt of public comment and public deliberation, the Highlands Council did approve the Township's Petition for Plan Conformance and did formalize such approval through the adoption of Highlands Council Resolution No. 2011-10; and


WHEREAS, Highlands Council Resolution No. 2011-10 requires the Township, after public notice, holding of public hearings, and in full accordance with all provisions of the MLUL, to adopt a revised master plan and land use ordinance to bring them into conformance with the Regional Master Plan; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, and in accordance with all associated requirements of the MLUL, the Planning Board held a public hearing on the Reexamination of the Township of Rockaway Master Plan and the proposed Highlands Master Plan Element pursuant to N.J.S.A. 40:55D-10(a), on September 16, 2013; and


WHEREAS, the Planning Board has determined after reexamination of the master plan, receipt of public comment, and public deliberation regarding same, that the Township of Rockaway Master Plan must be amended to incorporate the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Planning Board has determined that the adoption and implementation of the Highlands Element of the Master Plan is in the public interest and protects public health and safety and promotes the general welfare.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board hereby makes and adopts the findings of fact and all recommendations as set forth in the “2013 Township of Rockaway Master Plan Reexamination Report,” dated July 2013, prepared by Joseph H. Burgis, P.P., AICP, a reexamination of the Township of Rockaway Master Plan and development regulations conducted specifically to address the task of achieving conformance with the provisions of the New Jersey Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq.) and the Highlands Regional Master Plan.


Morton Dicker
Planning Board Chairman

I certify that the above is a true copy of a resolution adopted by the Rockaway Township Planning Board at a duly convened meeting held on September 16, 2013.


Cass Vincent Brennan
Planning Board Secretary

2013 MASTER PLAN REEXAMINATION REPORT

TOWNSHIP OF ROCKAWAY

Morris County, New Jersey



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JULY 2013

The original of this document was signed and sealed
in accordance with N.J.S.A. 45:14A-12.

Prepared by:


Joseph H. Burgis, P.P., AICP

Professional License No. 2450

TOWNSHIP OF ROCKAWAY
2013 MASTER PLAN REEXAMINATION REPORT

Introduction

The New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.) provides that each municipality within the State of New Jersey periodically reexamine its Master Plan policies and assumptions, and its zoning restrictions and site plan and subdivision regulations, and prepare and adopt by resolution, a report on the findings of such reexamination. The Reexamination Report must include the following components (N.J.S.A. 40:55D-89):

1. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
2. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
3. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
4. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
5. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

The current Township of Rockaway Periodic Reexamination Report of the Master Plan, Land Use Plan and Open Space Plan was adopted by the Planning Board pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on August 21, 2006. The Board subsequently adopted amendments to the Master Plan in June of 2010 and May of 2013, affecting the following Master Plan Elements, respectively:

1. Township of Rockaway Housing Element and Fair Share Plan, adopted June 1, 2010.
2. Township of Rockaway Open Space and Recreation Plan Update, adopted May 20, 2013.

Since the time of adoption of the Periodic Reexamination Report of the Master Plan and Land Use Plan, the assumptions, policies, and objectives upon which the Master Plan is based have not changed by virtue of the enactment of the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.) by the State Legislature on August 10, 2004, as this action took place prior to adoption of the Master Plan.

However, the assumptions, policies, and objectives upon which the Periodic Reexamination Report and Land Use Plan is based have changed by virtue of: a) the adoption of the Highlands Regional Master Plan by the Highlands Water Protection and Planning Council (“Highlands Council”) on July 17, 2008, which became effective on September 8, 2008; b) the requirement of the Highlands Act that municipal Master Plans and regulatory provisions be brought into alignment with the Highlands Regional Master Plan for lands located within the Highlands Preservation Area; c) the authorization within the Highlands Act for voluntary municipal Master Plan and regulatory conformance with the Highlands Regional Master Plan with respect to lands located within the Highlands Planning Area; and d) the affirmative decision of the Township of Rockaway Governing Body to conform to the Highlands Regional Master Plan for municipal lands located in both the Preservation Area and Planning Area, as set forth by Resolution No. 09-142 and Resolution No. 09-143 adopted on November 4, 2009.

Accordingly, the Planning Board has reexamined the Township Master Plan and development regulations to determine the specific changes necessary to achieve consistency with the Highlands Regional Master Plan and thereby, to incorporate the specific changes in State policies, goals, and objectives as set forth by the Highlands Act. It is the intent of this Report to identify the specific revisions needed to bring the Township Master Plan and development regulations into conformance with the Highlands Regional Master Plan.

1. Major Land Development Problems & Objectives

The majority of the problems and objectives relating to land development in the Township at the time of the adoption of the Periodic Reexamination Report and the Land Use Plan have not changed, specifically as a result of the adoption of the Regional Master Plan, and the decision of the Governing Body to conform its planning documents to the Regional Master Plan, because the Township was already in support of its designation within the Highlands Preservation and Planning Areas, which is reflected throughout the Plan.

However, one aspect of the Master Plan that has changed, specifically, as a result of the adoption of the Regional Master Plan, and the decision of the Governing Body to conform its planning documents to the Regional Master Plan, concerns the Township's third round Housing Plan. As discussed therein, the Township received substantive certification of its second round fair share plan in 1996 and had filed its third round housing plan with COAH in December 2005. At the time of the adoption of the last Master Plan, the Township was awaiting COAH's response to the plan.

2. Extent of Reduction/Increase in Problems & Objectives

Subsequent to the adoption of the Periodic Reexamination Report and the Land Use Plan, a number of events have transpired to complicate Rockaway's affordable housing efforts:

1. First, COAH's third round rules were determined, through an Appellate Division ruling, to require modification. A new set of revised third round rules were adopted on June 2, 2008.
2. Subsequent to this, in 2008, the Highlands Council adopted the Regional Master Plan and entered into a joint Memorandum of Understanding with COAH, which granted an extension for submitting revised Housing Elements and Fair Share Plans from December 31, 2008 to December 8, 2009 for those municipalities participating in Highlands Plan Conformance. Also, participating municipalities would be entitled to adjusted growth projections, reducing their affordable housing obligations. Rockaway Township, due to its election to petition the Highlands Council for Plan Conformance, was granted an extension to prepare a new Housing Element and Fair Share Plan and enabled to rely upon adjusted growth share figures.
3. Concurrent with the above, the Township was involved in on-going affordable housing litigation that resulted in three developers seeking to have their sites designated for inclusionary development. The Township began meeting with Superior Court Judge Eugene Serpentelli in August of 2009 to develop a compliance plan for Rockaway.

The Township Planning Board adopted a Housing Element and Fair Share Plan on June 1, 2010, which addressed each of the above issues. This Plan was filed with the Highlands

Council and the Law Division of Superior Court on June 1, 2010 and is currently under review.

3. Significant Changes in Assumptions, Policies, Objectives

Since the adoption of the Township of Rockaway Periodic Reexamination Report of the Master Plan, Land Use Plan and Open Space Plan on August 21, 2006, the adoption of the Regional Master Plan by the Highlands Council, and the adoption by the Governing Body of its resolution to conform the municipal planning documents to the Regional Master Plan, have significantly altered and increased the objectives that must be addressed in the Township Master Plan, including but not limited to incorporating a variety of Highlands Resource protections, providing an emphasis on infrastructure and environmental carrying capacities, and initiating a substantial modification to the methodology to be used in determining permitted densities of development within the municipality.

4. Specific Recommended Changes to the Master Plan

The Planning Board recommends that specific changes to the Township of Rockaway Master Plan be adopted, including modifications to the underlying objectives, policies and standards, all as outlined in detail, in the “Draft Township of Rockaway Highlands Master Plan Element” approved by the Highlands Council as part of the Township’s Petition for Plan Conformance (copy attached herewith).

5. Specific Recommended Changes to Development Regulations

The Planning Board recommends that the specific changes, as detailed in the document titled “Draft Township of Rockaway Highlands Area Land Use Ordinance,” approved by the Highlands Council as part of the Township’s Petition for Plan Conformance (copy attached herewith) be adopted by the Governing Body to implement the objectives, policies and standards as outlined in the Draft Highlands Element of the Master Plan. In addition, the Board recommends interim changes to the Township’s Development Application checklist ordinance, effective until such time as the Highlands Area Land Use Ordinance is adopted and put into effect by the Governing Body. These changes would require that evidence of consistency with the Highlands Regional Master Plan be submitted with Development Applications as a requirement of Application completeness, as provided in the attached Ordinance entitled “Draft Township of Rockaway Highlands Checklist Ordinance.”

6. Changes Recommended for Incorporation of Redevelopment Plans

At this time the Planning Board makes no findings or recommendations regarding the incorporation of redevelopment plans pursuant to the Local Redevelopment and Housing Law, P.L. 11992, c.79 (C.40A:12A-1 et al.).

Appendices

1. Draft Township of Rockaway Highlands Master Plan Element
2. Draft Township of Rockaway Highlands Area Land Use Ordinance
3. Draft Township of Rockaway Highlands Checklist Ordinance



DRAFT APPROVED BY THE HIGHLANDS COUNCIL

DRAFT Township of Rockaway Highlands Master Plan Element

Prepared by the State of New Jersey Highlands Water Protection and Planning Council in Support of the Highlands Regional Master Plan

January 2013

Please Note: This document should be read in concert with the Final Consistency Review and Recommendations Report prepared by Highlands Council Staff for the municipality. Prior to adoption, this cover page may be replaced in its entirety with one using the municipality's formatting and logo, the document should be finalized and all instructional text should be removed.

HIGHLANDS ELEMENT
DRAFT MASTER PLAN SUPPLEMENT
TOWNSHIP OF ROCKAWAY
MORRIS COUNTY, NEW JERSEY

DRAFT FOR SUBMISSION TO THE NEW JERSEY HIGHLANDS WATER
PROTECTION AND PLANNING COUNCIL TOWARD ACHIEVING PLAN
CONFORMANCE WITH THE HIGHLANDS REGIONAL MASTER PLAN

PLANNING BOARD

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Joseph Chovanec
Michael Dachisen, Mayor
John Quinn, Mayor's Alternate
James Kickham, Alternate #1
Jack Elko, Alternate #2

The Planning Board presented, discussed, and accepted public comment on this draft Master Plan supplement at its duly-noticed public meeting of August 17, 2009. Copies of the document were made available for review by the public at least 10 days prior to that meeting, and adequate notice of the meeting advising that the Highlands Element was on the agenda for discussion and public comment, was provided.

This document is based on a model Highlands Element prepared and provided to all Highlands municipalities by the New Jersey Highlands Water Protection and Planning Council. Modifications required to tailor it for application to the Township of Rockaway were provided by the individual indicated below.

PREPARED BY:

Joseph H. Burgis, PP, AICP

Professional License No. 2450

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INTRODUCTION

The Township of Rockaway is located in the New Jersey Highlands Region. It is one of 88 municipalities protected by and subject to the provisions of the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.). The Highlands Act was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring Highlands natural resources, in particular water resources, which provide drinking water to over 5 million New Jersey residents. The Highlands Act created the Highlands Water Protection and Planning Council (the “Highlands Council”) and charged it with crafting a comprehensive master plan for the Highlands Region.

To complete that task, the Highlands Council engaged in a four-year planning process involving extensive scientific and technical analysis of the Region, along with an intensive program of public outreach and participation. The Highlands Council solicited the advice and input of all stakeholders and interested parties through a variety of means, including but not limited to: initiation of the “Partnership Program” for municipal and county government representatives; formation of 18 Technical Advisory Committees comprised of technical experts and practitioners in relevant fields such as land use planning, engineering, agriculture, real estate appraisal, transportation, and business; and development of the “Network,” a forum for information-sharing and outreach to the general public. In addition, the Highlands Council has held and continues to adhere to a regular schedule of open public meetings providing continuous opportunity for public comment, and has provided for on-going data sharing and access to information through its internet website.

The Highlands Regional Master Plan (RMP) was adopted by the Highlands Council on July 17, 2008, and became effective on September 8, 2008. As the product of a long-term, participatory, and region-wide planning effort, the RMP is representative of the collective response of the wider community to the Legislature’s call for a Highlands comprehensive master plan. The Township places value in the regional planning process that was undertaken to fully develop the RMP and acknowledges its role in furthering the vision that it represents.

The Highlands Region encompasses some 1,343 square miles in the northwest part of New Jersey. The Highlands Act designates about half of the seven-county Region as Preservation Area (415,000 acres) and the other half as Planning Area (444,000 acres). The Act requires that jurisdictions having lands in the Preservation Area conform to the Highlands RMP with respect to that area, while for lands located in the Planning Area, conformance is voluntary.

The Township of Rockaway is located partially in each, the Preservation and Planning Area. The municipality affirmatively seeks to align its land use planning program with the provisions of the RMP with respect to the whole of the municipality. For purposes of this document, these lands shall henceforth be referred to as the “Township Highlands Area.” As to voluntary conformance for the Planning Area, the Governing Body adopted **General Ordinance #___ on ___ (insert date) [Township will insert prior to adoption]** indicating its intention to revise the municipal Master Plan and development ordinances, as applicable to the development and use of land in the Planning Area, to conform with the goals,

DRAFT Highlands Element to the Rockaway Township Master Plan

requirements, and provisions of the Highlands RMP.) This supplement to the Township Master Plan, designated the “Highlands Element,” represents a first step toward achieving full conformance with the Highlands RMP.

The Highlands Element sets forth the policies that shall guide the future land use and development of the Township Highlands Area. It provides the rationale and the framework for the adoption of land use regulations that are protective of Highlands resources and consistent with the Highlands RMP. With regard to specific regulatory requirements, these shall apply to non-exempt land use activities in the Highlands Area. “Non-exempt” land use and development refers to uses, activities, and development projects not expressly listed as exemptions in the Highlands Act (N.J.S.A. 13:20-28). Highlands Act exemptions pertain to specific “activities, improvements and development projects.” With the exception of the lands of federal military installations existing at the time of enactment of the Highlands Act, the exemptions do not apply across-the-board to lots, tracts, or any other divisions of land, whether existing or proposed at the time of passage of the Act. Land use activities, improvements, and development projects that are exempt from the Highlands Act shall remain subject to all other applicable provisions of the underlying municipal Master Plan, Zoning and Land Use Ordinances, and Development Regulations.

The Highlands Element amends or creates in limited form (where not already existing), each of the components of the municipal Master Plan, as provided in the sections that follow. The Highlands Element is intended to apply in conjunction with the language of the existing Township Master Plan to the maximum extent feasible. In the event of conflicts between the two, the Highlands Element shall supersede, unless the existing municipal Master Plan provisions are more restrictive.

POLICIES, GOALS & OBJECTIVES

The Township Highlands Area encompasses the whole of the municipality. It consists of approximately 29,371 acres of land (see Exhibit A, Township Highlands Area). Of the total acreage, approximately 17,789 acres (60.6 percent) lies within the Highlands Preservation Area while 11,582 acres (39.4 percent) lies within the Planning Area.

The Township Environmental Resource Inventory (ERI) (prepared by Burgis Associates, and dated January 2013 [*Township will update when final*]) provides detailed information concerning the physical features, natural resources and specific characteristics of the municipal Highlands Area. The municipal ERI includes all of the information available through the Highlands Regional Master Plan and supporting technical documents, which document the wide array of natural and cultural resources that characterize the New Jersey Highlands Region.

The municipality recognizes the unique value of the Township Highlands Area and seeks to protect and enhance it, in keeping with the Highlands Act and the Highlands RMP. Accordingly, the overarching land use policy with respect to the Township Highlands Area is to place priority emphasis on the protection, enhancement and restoration of Highlands natural and cultural resources while ensuring that land use and development activities therein occur only in a manner and location that is consistent with the Highlands RMP.

In keeping with this policy, the following goals of the Highlands Act and Highlands RMP are embraced by the municipality and shall guide the land use and development of the Township Highlands Area:

A. PRESERVATION AREA GOALS

1. To protect, restore, and enhance the quality and quantity of surface and ground waters;
2. To preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring retention of the unique and significant natural, scenic, and other resources representative of the Township Highlands Area;
3. To protect the natural, scenic, and other resources of the Township Highlands Area, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora;
4. To preserve farmland, historic sites, and other historic resources;
5. To preserve outdoor recreation opportunities on publicly owned land;
6. To promote conservation of water resources;
7. To promote Brownfield remediation and redevelopment, where applicable;

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8. To promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the environment of the Township Highlands Area; and
9. To prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.

B. PLANNING AREA GOALS

1. To protect, restore, and enhance the quality and quantity of surface and ground waters;
2. To preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes;
3. To protect and maintain the essential character of the Township Highlands Area environment;
4. To preserve farmland, historic sites, and other historic resources;
5. To promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities;
6. To preserve outdoor recreation opportunities on publicly owned land;
7. To promote conservation of water resources;
8. To promote Brownfield remediation and redevelopment, where applicable;
9. To encourage as applicable, and consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local growth and economic development in an orderly way while protecting the Township Highlands Area environment from the individual and cumulative adverse impacts thereof; and
10. To the extent applicable: To promote local transportation opportunities that are consistent with smart growth strategies and principles.

C. GENERAL PURPOSES OF ZONING

The afore-listed goals for the use and development of lands located within the Township Highlands Area are consistent with and intended to apply equally and in conjunction with the purposes of zoning as expressed by the New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.). Nothing in the body of the Highlands Element shall be construed to imply that the provisions of the MLUL are not also applicable to the Township in

DRAFT Highlands Element to the Rockaway Township Master Plan

exercising its authority to engage in land use planning and regulation pertinent to the Highlands Area.

The intents and purposes of the MLUL (N.J.S.A. 40:55D-2) are expressly incorporated herein for application to Township land use planning and management of the Highlands Area, as follows:

- a. To guide the appropriate use or development of all lands under Township jurisdiction, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;
- c. To provide adequate light, air and open space;
- d. To ensure that the development of the Township does not conflict with the development and general welfare of neighboring municipalities, the county, or the state as a whole;
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all citizens;
- h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the Township and to prevent urban sprawl and degradation of the environment through improper use of land;
- k. To encourage planned unit developments, where appropriate, which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and/or recreational development to the particular site;
- l. To ensure sufficient availability of senior citizen community housing;

DRAFT Highlands Element to the Rockaway Township Master Plan

- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- n. To promote utilization of renewable energy resources; and
- o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.

D. RELATIONSHIP BETWEEN HIGHLANDS ACT & MLUL

The Municipal Land Use Law gives authority to New Jersey municipalities to govern land use and development within their borders. The Highlands Act augments that authority to allow municipalities the power to enforce the goals, policies, objectives, and programs of the Highlands Regional Master Plan. The Highlands Act and the RMP together provide the regional perspective from which local decisions and actions will emanate.

As a result of the passage of the Highlands Act, the future of land use planning has significantly changed for both municipalities and counties in the Highlands Region. The New Jersey Supreme Court, in upholding the constitutionality of the Highlands Act in OFF, LLC v. State, 197 N.J. 418 (2008), affirmed the Appellate Division's decision, which emphasized the broad scope of the Highlands Act to protect the natural and agricultural resources of the Highlands through a coordinated system of regional land use controls. The Highlands Act creates a system in which a regional plan is designed to be implemented primarily through local government units. The net effect is that the statutory authority of local government units in the Highlands Region, inclusive of that provided under the Municipal Land Use Law (MLUL), is not preempted by the Highlands Act, but rather is supplemented through the passage of the Highlands Act and the adoption of the Highlands Regional Master Plan. The Highlands Act provides, through the conformance of municipal master plans and ordinances with the Highlands RMP, authorities for municipal regulation that are in addition to those of the MLUL.

Accordingly, the criteria for approval of development applications under the ordinances that ultimately effectuate this Highlands Element will incorporate aspects of both the Municipal Land Use Law and the Highlands Act. To the extent that MLUL criteria for approval of variances, waivers, exceptions and/or any other relevant aspect are altered or supplemented by provisions indicated in the Highlands Element, authority for such modifications derives from passage of the Highlands Act.

With respect only to the Preservation Area, the Highlands Council will coordinate with NJDEP during Highlands permit review for any major Highlands development including the review of waivers on a case-by-case basis: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in accordance with a Highlands

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Redevelopment Area Designation (see Land Use Plan, Section F); or 3) in order to avoid the taking of property without just compensation.

LAND USE PLAN

A. HIGHLANDS ZONES AND SUB-ZONES

The Township Highlands Area includes the Highlands Zones and Sub-Zones listed and described below. These Zones are configured as depicted in Exhibit A (“Township Highlands Area”) and are herewith incorporated into the Land Use Plan as an overlay to the existing Land Use Plan. The Highlands Council delineation of Highlands Zones finds basis in the underlying natural resources, the extent of existing development and supporting infrastructure, and the potential to support new development and/or redevelopment. Highlands Zones are intended to ensure that the density and intensity of future development and/or redevelopment do not exceed the capacity of the land, natural resources, and existing infrastructure to support it.

The Highlands Zones in Rockaway Township include two primary zones (the Protection Zone and Existing Community Zone) and three sub-zones (Wildlife Management Sub-Zone, Existing Community Zone–Environmentally Constrained Sub-Zone, and Lake Community Sub-Zone) each with its own purpose, application and development criteria.

1. **Protection Zone.** The Protection Zone consists of the highest quality natural resource value lands that are essential to maintaining water quality, water quantity and sensitive ecological resources and processes. Land acquisition is a high priority for lands in the Protection Zone and development activities will be extremely limited. Any development will be subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands and natural resources.
 - a. **Wildlife Management Sub-Zone.** The Wildlife Management Sub-Zone consists of areas managed by the United States Fish and Wildlife Service as part of the National Wildlife Refuge System, and lands within the Wildlife Management Area System administered by the NJDEP Division of Fish & Wildlife’s Bureau of Land Management. These areas are part of a network of lands and waters for conservation, management, and where appropriate, restoration of fish, wildlife and plant resources and their habitats and permit compatible wildlife-dependent recreational uses.
2. **Existing Community Zone.** The Existing Community Zone consists of areas of concentrated development representing existing communities. These areas tend to have limited environmental constraints due to previous development patterns, and may have existing infrastructure that can support additional development and/or redevelopment. Where served by adequate supporting infrastructure, lands within the Existing Community Zone are suited to higher densities and intensities of development (see Section C, below) than other Zones. This Zone has the greatest potential to accommodate mixed-use development projects and center-based planning initiatives, generally.
 - a. **Existing Community Zone–Environmentally Constrained Sub-Zone.** The Existing Community Zone–Environmentally Constrained Sub-Zone consists of

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significant contiguous critical habitat, steep slopes and forested lands within the Existing Community Zone that should be protected from further fragmentation. They serve as regional habitat “stepping stones” to larger contiguous critical habitat and forested areas. As such, they are not appropriate for significant development, and are best served by land preservation and protection. Development is subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

- b. **Lake Community Sub-Zone.** The Lake Community Sub-Zone consists of patterns of community development that are within the Existing Community Zone within 1,000 feet of lakes. Lakes are defined to include those 10 acres or greater in size with lake management areas consisting of lands within the first 1,000 feet (or less, depending on the protection focus) from the lake shoreline. The purpose for the sub-zone is to protect and enhance water quality, resource features, shoreline recreation, scenic quality, and community character. This zone incorporates unique regulatory requirements to prevent degradation of water quality, harm to lake ecosystems, and watershed pollution, while promoting natural aesthetic values within the Existing Community Zone.

In light of the significant environmental constraints that affect many of the Highlands Zones and Sub-Zones, future growth should be channeled into compact centers within them, where feasible, provided suitable locations can be identified. Such development must incorporate smart growth principles and should be designed at densities (see Section C, below) appropriate to the Zone, the community character, and the capacities of the water and wastewater systems (including septic systems) that support them. The Planning Board will examine the potential for such opportunities.

B. LAND USES

The intents and purposes for each municipal land use category or zoning district, as set forth by the underlying Land Use Plan, are herewith amended to recognize and give priority to the intents and purposes listed above for the Highlands Zones and Sub-Zones. As to land use classifications (e.g., single- or multi-family residential, commercial, industrial) and specific permitted land uses, a thorough review and comparison between municipal and Highlands Zones and Sub-Zones must be undertaken to assess compatibility and to determine whether zoning amendments (pertinent to non-exempt development) are necessary to achieve consistency. Until such time as that examination is complete, permitted uses shall remain in effect for non-exempt development, with the significant caveat that each is subject to compliance with: a) all resource constraints (discussed at length in the Conservation Plan Element); b) all applicable provisions of both the NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38) and the New Jersey Department of Agriculture (NJDA) Agricultural Development in the Highlands Rules (N.J.A.C. 2:92); and c) the density and intensity requirements set forth in the section that follows (see Section C, Density and Intensity of Development).

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Specific immediate changes to permitted uses will include the following, each pending the adoption of implementing ordinance provisions approved by the Highlands Council:

1. ***Carbonate Rock Area.*** Upon adoption of the appropriate regulatory provisions, uses which have a significant potential for discharge of hazardous materials, where otherwise permitted by the municipal ordinance, shall be prohibited from any portion of the Highlands Area designated a “Carbonate Rock Area” (as defined and delineated in the Conservation Plan Element) determined to contain karst features or from any lands identified as discharging surface water into identified karst features of a designated Carbonate Rock Area.
2. ***Prime Ground Water Recharge Area.*** Upon adoption of the appropriate regulatory provisions, any principal and/or accessory use or structure related or devoted to a use which has a significant potential for discharge of hazardous materials, where otherwise permitted by the municipal ordinance, shall be prohibited from any portion of the Highlands Area delineated as a “Prime Ground Water Recharge Area” (as defined and delineated in the Conservation Plan Element).
3. ***Wellhead Protection Area (Tier 1 and Tier 2).*** Upon adoption of the appropriate regulatory provisions, any principal and/or accessory use or structure related or devoted to such use, which has a significant potential for discharge of hazardous materials, where otherwise permitted by the municipal ordinance, shall be prohibited from any portion of the Highlands Area delineated as a “Tier 1 and Tier 2 Wellhead Protection Area” (as defined and delineated in the Conservation Plan Element).
4. ***Wellhead Protection Area (Tier 1).*** Upon adoption of the appropriate regulatory provisions, any principal and/or accessory use or structure related or devoted to such use, which is designated as a Major or Minor Potential Contaminant Source (PCS) by the Highlands Council (see Appendices A and B) where otherwise permitted by the municipal ordinance, shall be prohibited from that portion of any Tier 1 Wellhead Protection Area lying within 200 feet of the wellhead (Tier 1 Wellhead Protection Area as defined and delineated in the Conservation Plan Element).

C. DENSITY AND INTENSITY OF DEVELOPMENT

The physical potential for development and/or redevelopment in each Highlands Zone and Sub-Zone of the Township Highlands Area is limited by existing natural features, resource protection priorities, and the capacity of the land and available infrastructure to support it. This section sets forth a capacity-based planning framework intended to ensure that future development and redevelopment do not exceed carrying capacity.

To the extent that the existing development density and intensity standards of the underlying zone districts (as defined and applied under the existing Land Use Plan and

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Zoning Ordinance) are consistent with the parameters of this section, they shall remain in effect. Where any density or intensity goals of the existing Land Use Plan are inconsistent with these limits, they are herewith modified with respect to the Highlands Area, to the extent necessary to conform to the Highlands RMP. For purposes of these provisions, density of development standards refer to the requirements of the underlying Zoning Ordinance that regulate the permitted number of dwelling units per acre of land, whether specifically defined as density standards or set forth as minimum lot size requirements for application to specific zoning districts. Intensity of development standards refer to those requirements used to define the relationship between the permitted extent, form and location of development of a lot, to the size, shape, and configuration of the lot on which it is situated (e.g., floor area ratio, building coverage, building height, yard setbacks, number of stories).

In the context herein, modifications to the underlying density or intensity of development standards will occur only to the extent that existing standards conflict with provisions of the Highlands Act, NJDEP Preservation Area Rules, or RMP, in particular those concerning water availability or available septic system yield. These modifications shall not apply to lawfully existing or approved development in the Highlands Area at the time of adoption of the ordinances that effectuate such provisions. They shall apply, however, if modifications or improvements to such existing development result in an increase in demand for water availability or septic system yield (excluding any increase directly attributed to exercise of a Highlands Act exemption).

Permitted densities and intensities of development shall comport with the provisions of the Highlands RMP, Highlands Council Technical Reports and all data related thereto, and the applicable provisions of the Preservation Area Rules adopted by the NJDEP (N.J.A.C. 7:38). As provided therein, the framework for setting development density/intensity guidelines relies primarily on water and wastewater capacity analyses, with natural resource constraints to be applied largely on a project-specific basis at the development review level.

Permitted density and intensity allowances for the Highlands Area must also reflect municipal intents with respect to growth and development of the community. A comprehensive analysis will be required as follow-up to adoption of the Highlands Element, to determine specific density and intensity allowances for future non-exempt development within the Highlands Area. The Board will, with the assistance of its professionals, complete this analysis to determine: 1) the capacity for future growth and development of the Highlands Area (based on the RMP, Technical Reports, NJDEP Rules); 2) the extent to which such growth may be appropriate within the relevant portions of the community; and 3) the specific allocation of such growth and development over the Highlands Zones and Sub-Zones. (This analysis will take place with assistance from the Highlands Council after the Township has achieved Plan Conformance.)

Until such time as the full analysis can be completed, applications for development within the Highlands Area require reviews for consistency on a project-by-project basis. The major criteria for assessing the proposed density/intensity of development include the following:

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1. **Base Maps/Data.** Base data regarding water availability and wastewater treatment capacity appear in the technical information provided in the Conservation Plan and Utility Services Plan Elements, which includes associated mapping identified as Exhibits Q, U, and V. These include, respectively, maps of the Township Highlands Area: Net Water Availability, Public Community Water Systems, and Highlands Domestic Sewerage Facilities. All are herewith adopted and incorporated as a component of the Highlands Element.
2. **Water Availability.** As provided under Conservation Plan Element Section G, Water Resources Availability.
3. **Public Water Supply and Wastewater Utilities.** Where properties are served by existing water and wastewater utility infrastructure having sufficient available capacity, the density and intensity of new development shall be consistent with the requirements of existing zoning.
4. **Public Water Supply Utilities – Key Provisions**
 - a. **Preservation Area.** New, expanded, or extended public water systems are prohibited unless approved through issuance of either a Highlands Applicability Determination indicating that a project is exempt from the Highlands Act, or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.
 - b. **Planning Area – Protection Zone and Environmentally-Constrained Sub-Zones.** New, expanded, or extended public water systems are permitted only where approved by the Highlands Council.
 - c. **Planning Area – Existing Community Zone** (excluding Environmentally-Constrained Sub-Zone, including Lake Community Sub-Zone). Expansion or creation of public water systems is permitted: to serve lands which are appropriate for Transfer of Development Rights (TDR) Receiving Zones, infill development, or redevelopment; to address public health and safety; or to serve new areas for development that address all other requirements of the RMP.
5. **Wastewater Utilities – Key Provisions**
 - a. **Preservation Area.** New, expanded or extended wastewater collection and treatment systems and community on-site treatment facilities are prohibited unless approved through issuance of either a Highlands Applicability Determination indicating that a project is exempt from the Highlands Act, or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.
 - b. **Planning Area – Protection Zone and Environmentally-Constrained Sub-Zones.** New, expanded or extended wastewater collection and treatment systems and community on-site treatment facilities are permitted only where approved by the Highlands Council.

- c. **Planning Area – Existing Community Zone** (excluding Environmentally-Constrained Sub-Zone, but including Lake Community Sub-Zone). Expansion or creation of wastewater collection and treatment systems and community on-site treatment facilities are permitted: to serve lands which are appropriate for designated TDR Receiving Zones, infill development, or redevelopment; to address public health and safety; or to serve new areas for development that address all other requirements of the RMP. Such systems and facilities will be subject to all conditions of approval associated with amended Areawide Water Quality Management Plans, as authorized by the NJDEP in coordination with the Highlands Council.

6. Septic Systems – Key Provisions

- a. **Preservation Area.** Any Major Highlands Development (as defined at N.J.A.C. 7:38) involving the installation of one or more new individual subsurface disposal systems (or aggregate of equivalent disposal units as provided) shall meet NJDEP septic system density requirements as set forth at N.J.A.C. 7:38. In the case of Cluster Development, the septic system density for the developed portion of the site shall be based on a nitrate dilution target not to exceed 10 mg/L, determined by application of the Trela-Douglas Nitrate Dilution Model.

- b. **Planning Area.**

- i. **Septic System Density Allowances.** Septic system density (gross acres per septic system) allowances shall be determined for each Highlands Zone and Sub-Zone based on a modified version of the Trela-Douglas Nitrate Dilution Model. The following nitrate dilution targets shall apply to the calculation of septic system yields:

- **Existing Community Zone (and Sub-Zones)** – 2 mg/L, maximum
- **Protection Zone (and Sub-Zones)** – 0.72 mg/L, maximum

- ii. **Cluster Development Nitrate Targets.** New residential cluster development (see Section D) shall have a gross septic system density (for all parcels involved in the development proposal) based on the nitrate dilution target applicable to the Highlands Zone (6b.i, above). The septic system density for the developed portion of the site, however, shall be based on a nitrate dilution target not to exceed 10 mg/L.

- iii. **Septic System Density/Yield.** Septic system densities will vary not only on the basis of nitrate targets for each Zone (as above), but by HUC14 subwatershed, on the basis of drought ground water recharge. Septic system yields will further vary based on the amount of undeveloped and underdeveloped lands where septic system densities can be applied.

- iv. **Nitrate Dilution Model.** Density allowances shall be determined by application of one of the following methods:
- The modified Trela-Douglas nitrate dilution model used by the NJDEP (for more information see <http://www.highlands.state.nj.us/njhighlands/planconformance>), but with recharge based on drought conditions. This model provides the minimum acreage required per septic system, to ensure that recharge is sufficient to achieve a specified nitrate dilution target. The following factors, representative of a one-family household, or wastewater generation of 300 gallons per day, shall be used as inputs to the model: a household size of 4 persons, average nitrate loading of 10 pounds per person per year, and drought ground water recharge for the HUC14 subwatershed as dilution.
 - The chart of minimum average lot sizes by HUC14 subwatershed and Highlands Zone (including sub-zones) provided by the Highlands Council indicating the minimum average land area necessary for each new septic system (or equivalent system yield based on an average 300 gallons per day of wastewater generation). A copy of the chart is available at: <http://www.highlands.state.nj.us/njhighlands/planconformance>.

D. CLUSTER DEVELOPMENT

In furtherance of the goals and objectives of the Highlands Element, and of the State Development and Redevelopment Plan (SDRP), this Land Use Plan embraces cluster and conservation design development. These concepts allow flexibility in the design and lay-out of development projects, providing opportunity for new construction while addressing other priorities, such as: protecting environmentally sensitive areas, preserving large contiguous areas of open space and agricultural land, and enabling the continuation of existing agricultural and/or horticultural land uses.

Specifically, this Plan continues the Township's ongoing policy of permitting optional cluster development in the Very Low Density (R-5 Acre and R-88 Zones only), Low Density, and Moderate Density Residential land use categories, wherein residential development may be concentrated on a limited portion of a much larger tract, with the remaining land permanently deed-restricted for agriculture, conservation or open space and either held in common by the homeowners or dedicated to the municipality. Residential cluster development shall be permitted within the areas set forth above wherever the minimum thresholds for residential cluster development pursuant to Sections 54-30.13, 54-30.21.f.,

54-30.22.f., 54-30.23.f., and 54-30.29.f. of the Township's Land Use Ordinance can be satisfied.

E. LAND USE INVENTORY

Planning for the future of the Highlands Area requires a clear understanding and assessment of existing land uses and development within the Highlands Area, in the areas surrounding the Highlands Area, and throughout the municipality. The Township Land Use Inventory prepared by Robert Catlin and Associates, is representative of land use and development conditions within the municipality through April, 1990 (see Exhibit B). The Land Use Inventory requires an update to accurately represent existing land uses.

F. REDEVELOPMENT PLANNING

The Planning Board will examine the potential for redevelopment opportunities within the Highlands Area. The term "redevelopment" is used herein to refer to reconstruction or re-use of previously developed and underutilized properties (which may include Preservation Area sites that have 70% or greater of impervious surface, as well as other redevelopment and "grayfield" sites in the Planning Area), and to the rehabilitation and re-use of "brownfield" sites (identified as such by NJDEP where in the Preservation Area). Unless specifically stated otherwise, neither the term "redevelopment," nor the phrase "in need of redevelopment" is used herein to invoke the definitions, processes, powers or any other facet of the provisions of the New Jersey Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.).

Rather, Highlands Area redevelopment planning refers to the identification of previously developed areas that: a) are suitable for re-use and/or reconstruction, or reversion to "greenfields," such as parklands, conservation areas, or open space; and/or b) may be eligible for designation by the Highlands Council as Highlands Redevelopment Areas. Highlands Redevelopment Areas are typically characterized by ready access to or potential for water and wastewater utility infrastructure (and available or potential capacities); existing transportation infrastructure and/or services with links to viable transportation networks; proximity to supporting community facilities and services; and suitability for increased development intensity in keeping with smart growth planning principles. Where brownfields are involved in the Preservation Area, NJDEP identification of the brownfield site is a necessary step prior to Highlands Council designation of a Highlands Redevelopment Area. In the Preservation Area, such applications must be submitted to NJDEP for a Highlands Preservation Area Approval (HPAA) with Redevelopment Waiver.

It is the intent of this Plan to encourage redevelopment where appropriate within the Highlands Area, to ensure optimal and efficient use of land. By maximizing the use of previously developed areas and areas in need of environmental clean-up or other improvements, the municipality may provide for desirable new development (or new green spaces), while protecting lands that contain sensitive environmental features and important

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Highlands resources. This approach is intended to guide development toward the most suitable locations in the municipality, to encourage environmental clean-up where needed, and to maximize the use of existing infrastructure to meet future needs.

Redevelopment projects and activities that conform to density/intensity allowances and meet all other requirements of the applicable land use ordinances (specifically including those developed for the Highlands Area and the Highlands Preservation Area Rules at N.J.A.C. 7:38), do not require Highlands Redevelopment Area designation and may proceed as of right in accordance with all municipal procedural requirements. Any municipally-sponsored redevelopment project proposed pursuant to N.J.S.A. 40A:12A, while perhaps also requiring Highlands Council Redevelopment Area designation, must be advanced in accordance with all applicable statutory requirements, including preparation and adoption by the Governing Body of a Redevelopment Plan. The Planning Board, in making any Highlands Area determination of “area in need of redevelopment” pursuant to N.J.S.A. 40A:12A, will incorporate the considerations listed below for Highlands Redevelopment Area designations in evaluating the applicable criteria under N.J.S.A. 40A:12A-5.

1. Definitions.

- a. A “brownfield” site consists of a commercial or industrial site that is currently vacant or underutilized and on which there has been or is suspected to have been, a contaminant discharge.
- b. A “grayfield” site consists of a site supported by existing infrastructure that contains an industrial or commercial facility (not excluding one having a residential component) exhibiting signs of abandonment or underutilization, but without evidence or expectation of contamination.
- c. A “redevelopment project” or “redevelopment activity” refers to the re-use, reconstruction, or conversion to alternate use, of a brownfield site, a grayfield site, or a previously developed site that is currently vacant or underutilized in the Highlands Area. Redevelopment projects and activities may include but are not limited to: removal, reconstruction, or adaptive reuse of existing buildings and other structures; construction of new buildings and other structures; and conversion/restoration of a site or portions of a site for open space, recreation or conservation purposes of any kind.
- d. A “Highlands Redevelopment Area” consists of a property or group of properties designated as such by the Highlands Council, and which includes one or more of the following: a) a brownfield site; b) a grayfield site; and c) any previously developed site in the Highlands Area. A Highlands Redevelopment Area may include the intervening or surrounding lands which are significantly affected by or are necessary to support such sites, and will be subject to a Highlands Council-approved redevelopment plan setting forth the full scope and details of the proposed redevelopment project(s) and/or activities.

2. Redevelopment Projects and Activities.

- a. Redevelopment projects and activities that comply with all applicable land use ordinances (specifically including those developed for the Highlands Area) are encouraged in all Areas, Zones, and Subzones of the Highlands Area. Such projects and activities are also subject to all applicable county, state, and federal regulatory requirements.
- b. Redevelopment projects and activities involving conversion to greenfields are particularly encouraged in environmentally constrained areas, where compliance with Highlands Area ordinance provisions for new development may not be feasible.
- c. In consideration of the foregoing, the Board will recommend specific sites, consisting of brownfields, grayfields, and/or other previously developed vacant or underutilized properties, that should be considered for potential redevelopment projects and/or activities in accordance with all applicable ordinances and regulatory requirements.

3. Highlands Redevelopment Areas. In assessing the potential for Highlands Redevelopment Area designations, the Planning Board incorporates the following relevant considerations:

- a. Highlands Redevelopment Area designation in the Preservation Area is confined to: a) sites having 70% or greater impervious coverage, and/or b) sites designated as “Highlands brownfields” in accordance with NJDEP Preservation Area Rules (at N.J.A.C. 7:38-6.6). In addition to Highlands Council approval, a waiver is required from the NJDEP in conjunction with a Highlands Preservation Area Approval (HPAA).
- b. Highlands Redevelopment Area designation within the Planning Area will require Highlands Council approval of a detailed redevelopment plan. This plan will supersede all ordinances otherwise applicable to the Highlands Redevelopment Area, including those developed specifically for the Township Highlands Area, and will fully regulate the use and development of lands within the Highlands Redevelopment Area.
- c. Highlands Redevelopment Area designation will only be considered where lands are particularly suited to the proposed redevelopment plan, by virtue of a preponderance of existing characteristics such as, but not limited to: appropriate community location; availability of water and wastewater utility infrastructure and capacity; access to transit and/or other suitable transportation systems and networks; suitability for increased land use intensity or conversion to greenfields, as applicable; extensive coverage by impervious surfaces; proximity to community facilities and services; potential to embody and/or further smart growth principles; opportunity to protect

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resources; and potential to contribute to a sustainable local and/or regional economy.

- d. Any redevelopment project or activity permitted under the auspices of Highlands Redevelopment Area redevelopment plan must be designed and developed in accordance with smart growth and Low Impact Development principles (see Section K).
- e. Identification of opportunities for redevelopment projects and activities that are potentially suitable for Highlands Redevelopment Area designation in the Highlands Area should be assisted by the Highlands Council Redevelopment and Infill Analysis Tool. This review should also include any sites depicted in Exhibit C, "Highlands Contaminated Sites Inventory". Information on Highlands Contaminated Site Inventories is available in the Highlands Council *Regional Land Use Conditions and Smart Design Guidelines Technical Report*.
- f. In consideration of the foregoing, the Planning Board will identify potential Highlands Redevelopment Areas.

HOUSING PLAN

Rockaway Township's Planning Board adopted a Third Round Housing Element and Fair Share Plan, prepared by Burgis Associates, Inc., on June 1, 2010. The adopted Housing Element incorporates all applicable goals and objectives relating to the Highlands Area, consistent with the Highlands Regional Master Plan.

CONSERVATION PLAN

The basis for the Conservation Plan Element is the Highlands Area Environmental Resource Inventory (ERI), which is herewith adopted and incorporated in its entirety as an integral component of the Master Plan. The ERI was developed based on the vast store of resource information, technical data, and scientific analyses that provide foundation for the Highlands Regional Master Plan, including all Highlands Technical Reports and guidance documents. The ERI identifies, categorizes and delineates the wide array of natural resources and resource areas existing in the Township Highlands Area, and serves as a preeminent guidance document in Highlands Area community planning. In keeping with the general goals of the Highlands Element, it is the overarching policy of the Conservation Plan to safeguard the natural resources of the Township Highlands Area, ensuring sustainable use of renewable resources, protecting environmentally critical areas, and preserving significant natural areas. This policy directly advances the intents and purposes of the Highlands Act and is consistent with and furthers a number of the specific purposes of zoning as set forth under the MLUL (N.J.S.A 40:55D-2).

A. FOREST RESOURCES

Highlands Area Forest Resource delineations appear in the ERI maps duplicated herein at Exhibit D, "Forest Resource Area," and Exhibit E, "Total Forest Area."

This Plan seeks to balance the need to protect forest resources, biodiversity and water resources with the economic use and continued sustainable management of forests. It encourages active stewardship of forest resources in order to optimize the benefits and services forests provide such as clean air, clean water, soil protection, recreation area, wildlife habitat, and availability of forest products. The below-listed goals and objectives will guide the regulation and management of Township Highlands Area Forest Resources.

1. To protect and preserve extensive and, to the maximum extent possible, contiguous forests.
2. To limit development in the Forest Resource Area.
3. To prohibit clear-cutting except in accordance with a Forest Management Plan approved by the State Forester.
4. To require compliance with NJDEP Preservation Area Rules (N.J.A.C. 7:38) regarding forest protection in the case of all "major developments," as defined therein.
5. To avoid deforestation, and where forest disturbance does occur, to require incorporation of Low Impact Development Best Management Practices (see Section K) and adherence to Forest Mitigation Plans.
6. To ensure that site-specific forest resources are identified through project review and that those to remain are protected both during the construction of an approved development project and post-construction.

7. To maintain forest cover in the natural and built environment of the Township Highlands Area to the maximum extent possible.

B. HIGHLANDS OPEN WATERS AND RIPARIAN AREAS

Highlands Open Waters and Riparian Areas within the Highlands Area appear in ERI mappings duplicated herein at Exhibit G, “Highlands Open Waters” and Exhibit H, “Highlands Riparian Areas.” This Plan recognizes and incorporates the descriptions, definitions, delineations, and values regarding Highlands Open Waters and Riparian Areas as discussed in the ERI.

Highlands Open Waters are defined by the Highlands Act as all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial (excluding swimming pools), located wholly or partially within the boundaries of the Highlands Region. The Highlands Act and the Highlands RMP establish the importance of providing protective buffers adjacent to Highlands Open Waters. Key functional values that such buffers provide or contribute to, include but are not limited to habitat, stormwater and flood water retention and filtration, water quality protection, temperature moderation, aquatic ecosystem integrity and channel integrity. Highlands Riparian Areas are the lands associated with and bordering Highlands Open Waters, but often extending beyond the Highlands Open Water buffers, that provide critical hydrologic, ecologic and pollutant attenuation functions for the Open Waters.

The below-listed goals and objectives will guide the regulation and management of Highlands Open Waters and Riparian Areas in the Township Highlands Area.

1. To protect, restore and enhance Highlands Open Waters and Riparian Areas.
2. To require protective buffers adjacent to Highlands Open Waters of sufficient width and composition to protect the integrity of the water resource from impairment due to proximate land uses and/or development activities. Minimum standards for such buffers should be consistent with those of the NJDEP and the RMP.
3. To seek opportunities to restore the functional value of Highlands Open Waters buffers where existing development or land uses have reduced or impaired their quality.
4. To seek opportunities to enhance Highlands Open Waters buffers by improving functional values while ensuring no net loss (see ERI assessment methodology).
5. To develop a Stream Corridor Protection and Restoration Management Plan that identifies: a) substantially impaired Highlands Open Waters buffer areas in the municipality; b) opportunities for mitigation, restoration, and stabilization of such impaired buffer areas; c) stream corridor areas that require buffers in excess of minimum standards and the characteristics necessary to provide optimum functional value; and d) for Planning Area Category 2 surface waters, only, areas for

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which scientific analysis indicates that a lesser or alternative buffer is sufficient to maintain or improve protections, while at the same time, ensuring no net loss in functional value (see ERI assessment methodology).

6. With the exception of specific disturbances which may be authorized under a Highlands Council-approved Protection/Management Plan, to permit modifications to Highlands Open Waters, Highlands Open Water buffers, and Riparian Areas only for linear development where demonstrated that no feasible alternative exists to locate the linear development outside of such areas.
7. To limit disturbance of existing natural vegetation or increases in impervious area to the minimum feasible in areas beyond Highlands Open Waters buffer requirements; protect the water quality of adjacent Highlands Open Waters; and maintain or restore habitat value of the Riparian Area.

C. STEEP SLOPES

Steep slopes within the Highlands Area appear in the ERI mapping duplicated herein at Exhibit K, "Steep Slope Protection Areas." This Plan recognizes and incorporates the descriptions, definitions, delineations and values regarding steep slopes as discussed in the ERI.

The Township is particularly concerned with the potential negative impacts of land development practices that do not properly consider the constraints and challenges presented by steep slope areas. As discussed in the ERI, disturbance of such areas can trigger erosion and sedimentation, resulting in the loss of topsoil. Silting of wetlands, lakes, ponds and streams damages and degrades wetland and aquatic habitats, especially trout streams, which require rigorous water quality protections. Steep slope disturbance can also result in the loss of habitat quality, degradation of surface water quality, silting of wetlands, and alteration of drainage patterns. These processes, when severe, can result in land slumping and landslides that can damage both developed property and ecosystems. The severity and extent of slopes, soil characteristics, and land cover all affect the potential for damages from the disturbance of steep slopes.

Accordingly, the below-listed goals and objectives will guide the regulation and management of Township Highlands Area Steep Slope Protection Areas.

1. Maps and delineations of Steep Slope Protection Areas should be updated and improved as better information becomes available (i.e., through enhanced mapping anticipated to be made available from the Highlands Council) and/or as new areas are identified through project reviews pertaining to individual sites and properties.
2. Land disturbance within all Steep Slope Protection Areas should incorporate Low Impact Development (see Section K) techniques to minimize the extent of such disturbance and the potential negative impacts resulting from it.

3. Land disturbance within areas of Severely and Moderately Constrained Slopes should be prohibited altogether, with exceptions only for linear development meeting the requirements of NJDEP Preservation Area Rules (at N.J.A.C. 7:38-3.8(c)1-4).

D. CRITICAL HABITAT

Critical Habitat within the Highlands Area appears in the ERI mappings duplicated herein at Exhibit L, "Critical Wildlife Habitat," Exhibit M, "Significant Natural Areas," and Exhibit N, "Vernal Pools." This Plan recognizes and incorporates the descriptions, definitions, delineations and values regarding Critical Habitat as discussed in the ERI.

Biodiversity is the variety of plant species, animal species, and all other organisms found in a particular environment and is a critical indicator of ecological integrity. Habitat protection is critical to maintaining biodiversity including the many rare, threatened and endangered plant and animal species of the Highlands Region. There are three categories of Critical Habitat in the Highlands Region: 1) Critical Wildlife Habitat (habitat for rare, threatened or endangered animal species); 2) Significant Natural Areas (regionally significant ecological communities, including habitat for documented threatened and endangered plant species); and 3) vernal pools (confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels). Critical Wildlife Habitat and Significant Natural Areas are designated based on the presence of, and associated habitat required for, the survival and propagation of species of concern. Vernal pools shown in Exhibit N are those certified by the NJDEP. To protect the habitat requirements of vernal pool-breeding wildlife, the Highlands Council has determined that a terrestrial habitat buffer of 1,000 feet around vernal pools is required.

The below-listed goals and objectives will guide the regulation and management of Township Highlands Area Critical Habitat.

1. To prohibit the direct impact of new human development or expansion or increased intensity of existing development within Critical Habitat.
2. To promote the restoration and enhancement of impaired lands in Critical Habitat.
3. To develop and adopt a Habitat Conservation and Management Plan(s), including minimum performance standards and criteria as outlined below, for the protection, enhancement and restoration of lands within Critical Habitat.
 - a. Require use of Low Impact Development Best Management Practices (see Section K) to, in this order: 1) avoid the disturbance of Critical Habitat, 2) minimize impacts to Critical Habitat, and 3) mitigate all adverse modification to Critical Habitat so that there is no net loss of habitat value. Habitat value is determined by quantity (e.g., acreage), quality (e.g., core forest vs. edge forest), type (e.g., scrub-shrub), and function (e.g., winter hibernacula for timber rattlesnakes). The mitigation requirement of no net loss of habitat value shall ensure that all four elements are accounted for and included in the mitigation

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- design. Mitigation must meet the habitat and life-cycle requirements of the specific impacted species.
- b. Establish criteria for mitigation of disturbed Critical Habitat. Mitigation should be required for all adverse modification to Critical Habitat so that there is no net loss of habitat value.
 - c. Establish performance standards for the enhancement or restoration of historically disturbed Critical Habitat.
 - d. Provide a GIS or map-series Critical Habitat Overlay to identify Critical Habitat, that highlights:
 - i. Habitat in need of protection from fragmentation and other anthropogenic impacts;
 - ii. Habitat critical to maintaining wildlife and plant populations; and
 - iii. Habitat that serves other essential ecosystem functions, including, but not limited to, carbon sequestration and ground water recharge.
 - e. Develop guidelines for habitat stewardship, including, but not limited to prevention of habitat fragmentation through open space preservation and corporate, non-profit, and community involvement in creating, protecting, and restoring habitat.
4. To require that applications for development affecting Critical Habitat be subject to the standards and criteria outlined in the applicable Habitat Conservation and Management Plan.
- a. Prohibit direct impacts from new development or expansion or increased intensity of existing development that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver from the Highlands Council or the NJDEP.
 - b. Prohibit indirect impacts from activity that is off-site, adjacent to, or within Critical Habitat that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver from the Highlands Council or the NJDEP.
 - c. Prohibit modification of a vernal pools protection buffer, except as permitted through the issuance of a waiver from the Highlands Council or the NJDEP.
 - d. Prohibit modifications to the delineation of Critical Wildlife Habitat and Significant Natural Areas, except as permitted through the issuance of a waiver from the Highlands Council or the NJDEP.

E. CARBONATE ROCK

Carbonate Rock Areas within the Highlands Area appear in the ERI mapping duplicated herein at Exhibit O, "Carbonate Rock Areas." This Plan recognizes and incorporates the descriptions, definitions, delineations, and issues of concern regarding carbonate rock areas as discussed in the ERI.

Of particular concern to the Township, are the potential negative impacts of land development practices that do not properly consider the constraints and challenges presented by carbonate rock areas. As discussed in the ERI, dissolution of underlying carbonate rocks (such as limestone and dolomite) by surface water or ground water can cause surface depressions and the development of such features as sinkholes, sinking streams, enlarged bedrock fractures, caves and underground streams. Sinkholes function as funnels, directing surface water runoff into karst aquifers with little or no attenuation of any transported contaminants. Stormwater basins, septic system leaching fields, sewers, agricultural runoff, lawn runoff, underground pipelines, and soil disturbance may also contribute contaminants directly to ground water through karst features. Soils in sinkhole bottoms may be thin or non-existent. In addition to ground water concerns, karst areas can lead to public safety concerns. Sinkholes present a geologic hazard as they may undermine such infrastructure as stormwater basins, roads, sewer lines, septic systems, and natural gas lines.

Accordingly, the below-listed goals and objectives will guide the regulation and management of Township Highlands Area Carbonate Rock Areas.

1. To continuously update and improve maps and delineations of karst features within Carbonate Rock Areas as better information becomes available (i.e., through enhanced mapping technologies) and/or as new areas are identified through project reviews pertaining to individual sites and properties.
2. To develop maps identifying all lands that drain into Carbonate Rock Areas determined to contain karst features, for easy reference by applicants, reviewing officials, and Land Use Boards. This will ensure that consideration is given to the protection of affected Carbonate Rock Areas (whether on- or off-site) during the course of development reviews.
3. To carefully examine land development applications for potential impacts to Carbonate Rock Areas containing karst features, whether by direct disturbance, or by indirect means such as introduction of additional stormwater runoff.
 - a. To require submission of any and all information, technical data, geotechnical studies and/or analyses that may be necessary to locate and determine the extent of affected carbonate rock features during the course of development reviews.
 - b. To ensure that potential carbonate-rock-related hazards to public health or safety, to existing structures (including public infrastructure), and to ground or

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surface water quality are avoided, minimized or otherwise addressed by incorporation of appropriate measures and/or design features into project plans prior to approval of such development applications. Preference should be given to nonstructural approaches, where feasible, such as avoiding carbonate rock features altogether, and ensuring that existing conditions relating to them (where satisfactory) are not modified.

4. To ensure that issues and concerns related to carbonate rock are similarly evaluated and addressed in the planning, design, construction and maintenance of public infrastructure projects, including those discussed in the Utilities Service and Transportation/Circulation Plan Elements of this Master Plan.
5. To prohibit, from Carbonate Rock Areas containing karst features and from lands identified as draining into such areas, the construction or installation of new uses, structures or facilities that present an unacceptable risk of hazardous and/or toxic discharge.
6. To require that Major Potential Contaminant Sources (PCS) (as listed at Appendix A) in Carbonate Rock Areas containing karst features, incorporate ongoing management of toxic chemical sources and prohibition of non-permitted discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized.

F. LAKE MANAGEMENT

Lake Management Areas within the Highlands Area appear in the ERI mapping duplicated herein at Exhibit P, "Lake Management Area." This Plan recognizes and incorporates the descriptions, definitions, delineations and issues of concern regarding lakes management as discussed in the ERI. Definitions include those pertinent to four lake management tiers: the Shoreland Protection Tier, the Water Quality Management Tier, the Scenic Resources Tier, and the Lake Watershed Tier.

Of particular concern to the Township are the potential negative impacts of land development practices that do not properly consider the constraints and challenges presented by lake management areas. As discussed in the ERI, overdeveloped, damaged and poorly managed shore land areas can degrade water quality, harm lake ecosystems, diminish natural aesthetic values, and cause an overall loss of property values for lake communities. Lakes can also be harmed by pollutant sources in the watershed area draining to them. Polluted lakes can, in turn, damage downstream streams and rivers.

The Township Highlands Lake Management Area is affected by the existence of many subsurface septic systems which process sanitary wastewater in proximity to the lake. It is relevant to note that, in Green Pond, a number of dwellings are situated on the interior or lake side of the road, which extends around the lake, while their septic systems are located on the other side of the road, on a different lot. The Planning Board believes that this arrangement offers a unique degree of protection to Green Pond from potential septic system failures and seeks to continue it, as appropriate. Given the character of the lots and

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the environmental factors that impact development in this area, the Board will seek input from the Highlands Council to ensure that suitable distances are maintained between any new septic systems and the hydrologic interface with Green Pond.

Accordingly, the below-listed goals and objectives will guide the regulation and management of the Township Highlands Lake Management Area.

1. To prevent degradation of lake water quality, protect lake ecosystems, and promote lake area aesthetic values in the Lake Community Sub-Zone.
2. To protect lake water quality and associated ecosystems from the impacts of present and future development for all lakes. Applicable management strategies should address direct and proximate potential impacts from such activities as shoreline modification and development, dredging and pollutant discharges including those from septic systems, cesspools and other forms of wastewater management.
 - a. Ensure that land use and development activities in the Shoreland Protection Tier do not damage on-shore and near-shore ecological resources and cause direct pollutant loadings to lake waters.
 - b. Ensure that land use and development activities in the Water Quality Management Tier do not contribute continuous pollutant loadings to lake waters.
 - c. Develop and implement lake restoration management plans to protect, restore and, where possible, enhance lake water quality through management of pollutant sources in the Lake Watershed Tier.
3. For each lake in the municipality identified as water quality-impaired, to either ensure compliance with Total Maximum Daily Load (TMDL) limitations adopted by the NJDEP, or to develop and implement lake restoration management plans. Such plans should include at minimum, watershed delineation, description of point and nonpoint sources of pollution in the watershed, lake monitoring schedules, existing and proposed in-lake management techniques, and recommended watershed best management practices.
4. To protect the character of the Township Highlands Lake Management Area.
 - a. Assess existing zoning requirements to determine whether amendments are necessary to ensure that development is compatible with shoreline uses and activities and that it occurs at a scale and intensity appropriate to the Lake Management Area.
 - b. Protect the visual and scenic resources in the Scenic Resources Tier through such means as vegetative screening, limits on tree removal, shore line building/disturbance setbacks, and building height limitations.

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5. To maximize opportunities for public access to lakes and lake areas (excluding those under private ownership/management) for appropriate passive and active recreational uses that do not degrade lake environments.
6. To maintain lakes or restore lake beds and downstream areas when lakes are drained. Damages to lake bed and/or downstream stream habitat, for example, should be prevented, mitigated or restored as needed following the breach or removal of a dam. Achieving this goal will require dedicated sources of funding from public and private sources, as applicable.

G. WATER RESOURCES AVAILABILITY

Highlands Area water availability is represented by the ERI mapping duplicated herein at Exhibit Q, "Net Water Availability." This Plan recognizes and incorporates the descriptions, definitions, analyses and issues of concern regarding water availability as discussed in the ERI. Based on the Low Flow Margin analytical method described in the ERI, the Township lies within 3 HUC14 subwatersheds having positive net water availability, and 10 HUC14's determined to be in deficit.

The availability of water for human use is a critical factor in determining the capacity for growth and continued economic vitality in the Township Highlands Area. The availability of water for ecological purposes is critical to sustaining the aquatic ecosystems of streams, ponds and lakes. Of particular concern to the Township is the potential for overuse of water to reduce base flows, impair ecological function and integrity, and reduce the reliability of potable water supplies that the municipality depends upon.

Accordingly, the below-listed goals and objectives will guide the regulation and management of Township Highlands Area water availability.

1. To protect, restore (if applicable) and enhance the availability of surface and ground water in the Township Highlands Area.
2. To ensure that increasing water demands do not exceed Net Water Availability or exacerbate existing deficits of subwatersheds.
3. To strictly limit consumptive and depletive water uses to the water availability in each HUC14 subwatershed.
4. To provide limited water availability (Conditional Water Availability) within a Current Deficit Area with appropriate standards regarding its use and rigorous requirements for mitigation, effective until such time as a municipal Water Use and Conservation Management Plan has been developed and adopted.
5. Within Protection Zone subwatersheds, to give highest priority for the use of non-agricultural Net Water Availability or Conditional Water Availability addressing a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to

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justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To assign secondary priority to the following:

- a. A designated Highlands Redevelopment Area;
 - b. A cluster development that complies with Sections 54-30.13, 54-30.21.f., 54-30.22.f., 54-30.23.f., and 54-30.29.f. of the Township's Land Use Ordinance; and
 - c. Any project proposing affordable housing in excess of the obligation otherwise generated by it.
6. Within Existing Community Zone subwatersheds, to give highest priority for use of Net Water Availability or Conditional Water Availability to addressing a documented threat to public health and safety from contaminated water supplies. To assign secondary priority to the following:
- a. Designated TDR Receiving Zones;
 - b. Infill development;
 - c. Designated Highlands Redevelopment Areas;
 - d. Projects proposing affordable housing in excess of the obligation otherwise generated by them; and
 - e. New areas for development that meet all other requirements.
7. To require the use of water conservation, recycling and reuse methods (where appropriate) and devices for any redevelopment or development activity, including renovations to existing buildings, to minimize consumptive water use. This should include mandatory collection and use of stormwater to serve non-agricultural irrigation needs and to the extent feasible, other non-potable purposes.
8. To ensure that proposed public water supply and wastewater service areas, and new or increased water allocations and transfers will not directly or indirectly cause or contribute to a Net Water Availability deficit, and where feasible will help mitigate any existing deficit.
9. To ensure efficient and effective use of water availability, reduction and elimination of water deficits, and mitigation of new consumptive or depletive use in any Current Deficit Areas or subwatersheds that could become deficit areas based on projected development and water uses.
10. To permit new consumptive or depletive water uses within a Current Deficit Area only under the auspices of a Water Use and Conservation Management Plan; or until such a Plan is in place, to permit such uses only within the allocated Conditional Water Availability and provided that mitigation of the proposed use is accomplished within the same HUC14 subwatershed through: a permanent reduction of existing

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consumptive and depletive water uses; ground water recharge in excess of the requirements of N.J.A.C. 7:8 (Stormwater Management Rules); or other permanent means.

11. To develop and implement a Water Use and Conservation Management Plan that sets forth the manner and mechanisms by which to achieve each of the preceding goals and objectives.
 - a. Where developed for Current Deficit Areas, the Plan must include provisions to reduce or manage consumptive and depletive uses of ground and surface waters as necessary to reduce or eliminate deficits in Net Water Availability, or to ensure continued stream flows to downstream Current Deficit Areas from Existing Constrained Areas, to the maximum extent practicable within each HUC14 subwatershed.
 - b. For Current Deficit Areas, the Plan must in addition include a detailed implementation plan and schedule indicating how and when the current deficit will be resolved in the applicable subwatershed(s) prior to approval of new water uses in the subwatersheds with the most severe deficits (e.g., in excess of 0.25 million gallons per day), and the plan shall be implemented prior to initiation of new water uses.
 - c. The Plan must also ensure that transfers between or from Highlands Subwatersheds occur only where no viable alternative exists to meet public health, safety and welfare needs and where no impairment of subwatershed resources will result.

H. PRIME GROUND WATER RECHARGE AREAS

Prime Ground Water Recharge Areas within the Highlands Area appear in the ERI mapping duplicated herein at Exhibit R, “Prime Ground Water Recharge Areas.” This Plan recognizes and incorporates the descriptions, definitions and delineations for Prime Ground Water Recharge Areas (PGWRAs) as discussed in the ERI. Prime Ground Water Recharge Areas are those lands within a HUC14 subwatershed that most efficiently provide in the aggregate, 40 percent of total drought recharge volume for the HUC14 subwatershed, as determined in accordance with parameters set forth in the ERI. Protection of such areas is clearly vital to maintaining the quality and quantity of the ground water resources upon which both human and non-human communities in the Highlands Area so heavily rely.

Accordingly, the below-listed goals and objectives will guide the regulation and management of Township Highlands Prime Ground Water Recharge Areas.

1. To protect, enhance, and restore the quantity and quality of Prime Ground Water Recharge Areas.

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2. To require use of Low Impact Development (see Section K) and other Best Management Practices to maximize natural ground water recharge and minimize the need for engineered recharge methods.
3. To restrict land use and development activities that reduce natural ground water recharge volumes in PGWRAs or that may contribute to or result in degradation of ground water quality, whether directly or indirectly.
4. To avoid disturbance of lands identified as PGWRAs to the maximum extent feasible, and to minimize such disturbance where it cannot be avoided. Where disturbances do occur in PGWRAs, to require mitigation measures to enhance pre-construction recharge volumes.
5. To prohibit land uses and activities that pose significant risk of ground water contamination from locations delineated as PGWRAs.
6. To require that Major Potential Contaminant Sources (PCS) (as listed at Appendix A) in locations delineated as PGWRA, incorporate ongoing management of toxic chemical sources and prohibition of non-permitted discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized.
7. To identify and implement opportunities for the restoration or enhancement of recharge in Prime Ground Water Recharge Areas and other lands through such means as the retrofit or rehabilitation of stormwater recharge facilities, land management improvements and reforestation.
8. To achieve a net improvement in ground water volume and quality through enhanced infiltration, pretreatment and other available means.

I. WATER QUALITY

This Plan incorporates the descriptions, definitions and summary data regarding water quality by HUC14, as discussed in the ERI. In addition, it incorporates as Exhibit S, "HUC 14s on NJDEP Impaired Waters List," as duplicated from the ERI. Water quality affects drinking water, recreation, ecosystems and aesthetic beauty. The most common parameters that may impair surface and ground water quality are fecal coliform bacteria, phosphorus, temperature, arsenic and nitrate-nitrogen. These and other contaminants can either cause health risks if ingested or harm native biota, resulting in non-attainment of designated water uses for the water body.

Water quality is influenced by the type and intensity of land use adjacent to and upstream of the water body. Pollutants are contributed to the environment from a wide variety of nonpoint sources (NPS) including human development (through stormwater and residential runoff, septic systems, fertilizer applications on lawns, and Brownfields or contaminated sites), domestic or captive animals, agricultural practices (crop farming, livestock, and manure applications), and wildlife (large populations). Pollutants from these

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sources can reach water bodies directly, through overland runoff, or through stormwater conveyance facilities. Point sources also exist, primarily wastewater treatment plants serving communities or industrial facilities.

Accordingly, the below-listed goals and objectives apply to the management and regulation of water quality in the Township Highlands Area.

1. To protect, restore (if applicable) and enhance water quality in the Highlands Area.
2. To remedy the pollutant sources associated with existing or historic land uses in conjunction with redevelopment opportunities.
3. To ensure that land use and development is permitted only in such locations, at such densities, and in such manner as to ensure sustainable use of Highlands Area water resources and continued protection and management of critical lands for water quality purposes.
4. To ensure that the municipal portion of any Areawide Water Quality Management Plan or Wastewater Management Plan will not directly or indirectly support development that would be in violation of any adopted Total Maximum Daily Load (TMDL) limits established by NJDEP.
5. To adopt and implement stormwater management controls through a municipal Stormwater Management Plan.
6. To require use of applicable Low Impact Development (see Section K) and Best Management Practices to protect the quality of ground and surface waters.

J. WELLHEAD PROTECTION

Wellhead Protection Areas within the Highlands Area appear in the ERI mapping duplicated herein at Exhibit T, "Wellhead Protection Areas." This Plan recognizes and incorporates the descriptions, definitions and delineations for Wellhead Protection Areas (WHPAs) as discussed in the ERI. Highlands Area WHPAs are delineated for community water supply wells based upon time of travel, reflecting the time required for ground water to flow into the well. WHPAs are composed of three tiers based upon a 2-year (Tier 1), 5-year (Tier 2), and 12-year (Tier 3) time of travel. Each tier includes the area of each smaller tier within it.

Protection of ground water resources that directly provide water to potable water supply wells is vital to the public health, safety, and welfare of the community. It is also of primary importance to ensure continued availability of clean drinking water to all that rely upon it. Through regulation of land use, physical facilities and other activities within WHPAs, the potential for ground water contamination can be reduced by preventing the introduction and migration of pollutants into ground water sources that supply water supply wells.

Accordingly, the below-listed goals and objectives will guide the regulation and management of Township Highlands Wellhead Protection Areas.

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1. To identify and ensure proper management of existing land uses within Wellhead Protection Areas that have a significant potential for contributing pollutants of concern to ground water.
2. To protect and enhance ground water and water supply resources within Wellhead Protection Areas consistent with the source water assessments for each water supply source.
3. To prohibit land uses and activities that pose significant risk of ground water contamination from locations delineated as Tier 1 and Tier 2 Wellhead Protection Areas, with enhanced protections within the first 200 feet of any public water system wellhead.
4. To require that Major Potential Contaminant Sources (PCS) (as listed at Appendix A) in locations delineated as Tier 1 Wellhead Protection Areas, incorporate ongoing management of toxic chemical sources and prohibition of non-permitted discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized.
5. To ensure that stormwater management plans pertinent to both development applications and municipal-wide planning, address wellhead protection requirements.
6. To encourage stormwater reuse for non-agricultural irrigation and other non-potable water purposes to minimize the volume of stormwater discharges (other than from clean sources) within a Tier 1 or Tier 2 Wellhead Protection Area.
7. To restrict development activities that pose threats to the water quality of public water supply wells.
8. To ensure that development activities and existing land use activities implement best management practices to protect the quality of ground water within Wellhead Protection Areas.
9. To ensure that the uses, structures or activities permitted within utility service areas, as proposed within the municipal portion of the Areawide Water Quality Management Plan or Wastewater Management Plan, will not adversely affect any Wellhead Protection Area.

K. LOW IMPACT DEVELOPMENT

This Plan embraces the concept of Low Impact Development (LID) and seeks to ensure its maximum use in land development activities throughout the Highlands Area. LID encompasses a broad array of development and management techniques that can minimize or mitigate the potential adverse impacts of land use and development on the natural environment. LID is used in stormwater management, resource management, “green” building, and sustainable site design. In stormwater management for example, LID

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techniques can be employed to capture rainfall, filter it through existing vegetation, and maximize its absorption by on-site soils in order to recharge ground water supplies. In site design, LID would incorporate strategies to reduce site disturbance, limit impervious coverage, and integrate existing natural features affecting the site and/or its immediate surroundings into the proposed layout and design.

To accomplish such aims, specific LID standards should be developed and incorporated into Township land use regulations. Because LID practices and innovations continue to emerge, these should include, but by no means be limited to the following:

1. Stormwater management LID standards that preserve or mimic the natural hydrologic features and characteristics of the land.
 - a. Use of stormwater management features that maintain, restore and enhance the pre-existing natural drainage patterns of the site.
 - b. Limitations on impervious coverage allowances to maximize stormwater infiltration and reduce runoff.
 - c. Requirements for site-specific hydrologic studies which identify the velocity, volume and pattern of water flow into, through and flowing from a parcel proposed for development.
 - d. Requirements that stormwater management systems employ a “design with nature” approach by use of grass channels, dry swales, wet swales (vegetated channels designed to retain water or marshy conditions that support wetland vegetation), infiltration basins, bio-swales and water gardens, constructed wetlands, green roofs, and other low impact approaches to attenuate and control stormwater and provide multiple environmental benefits.
2. LID practices that minimize land disturbance during construction activities.
 - a. Requirements for site-specific analysis of environmental features and constraints as an integral component of site design.
 - b. Limitations on site disturbance, soil compaction, clearing and grading to the minimum necessary to allow for permissible development.
 - c. Provisions to minimize soil erosion and airborne dust during construction and to protect streams and other water bodies from silt and sedimentation.
3. LID best management practices where any development application proposes disturbance of a Highlands Area resource, including but not limited to Steep Slope Protection Areas, Forest Areas, Critical Habitat Areas, Highlands Open Waters and Riparian Areas, and Prime Ground Water Recharge Areas.
 - a. Highlands Area resources should be identified as a first step in site planning.

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- b. To the maximum extent practicable Highlands Area resources should be avoided or their disturbance minimized through site design.
 - c. The quality and value of Highlands Area resources located on development sites should be maintained by use of LID strategies that minimize the impacts of development to the maximum extent possible.
4. LID practices in design of sites, buildings, structures and roadways. Development and redevelopment projects should follow a prescribed conservation design planning process that considers existing site features and site context; maximizes opportunities for open space and connections to open space systems; and incorporates LID practices in all aspects of stormwater management, site layout, and resource protection. In addition to the previously listed items (1-3, above) these include but are not limited to the following:
- a. Use of water conservation measures in site layout and structures, including but not limited to such practices as water efficient landscaping (including use of native and drought-tolerant plant species), rain collection systems, use of gray water, and water-efficient landscape irrigation.
 - b. Use of low maintenance landscaping that encourages retention and planting of native vegetation and minimizes lawn areas and use of fertilizers and pesticides.
 - c. Use of pervious paving materials and minimization of impervious surfaces.
 - d. Use of micro-climate conditions to maximize solar gain for winter heating and minimize solar gain during high temperature summer conditions.
 - e. Re-use and recycling of building materials when development involves demolition.
 - f. Inclusion of energy-efficient features in site layouts and buildings.
 - g. Roadway design standards (subject to RSIS limitations) that incorporate LID techniques to address stormwater management, limit impervious coverage, ensure planting of native and drought-resistant vegetation, and integrate other “green street” design initiatives.

UTILITY SERVICES PLAN

It is the overarching policy of this Plan to ensure that development of the Highlands Area does not exceed the available environmental and infrastructural capacity to support it. The Utilities Services Plan recognizes and incorporates the following Exhibits, as described and discussed in the ERI and duplicated herein: Public Community Water Systems (Exhibit U); and Highlands Domestic Sewerage Facilities (Exhibit V).

This Plan recognizes that future development must only occur within the carrying capacity of water resources, as to both quality and quantity. It also recognizes the importance of ensuring that water supply and wastewater utility capacities are made available in ways that provide maximum benefit within the constraints of water availability and water quality protection, and are used in ways that provide cost-effective and efficient service. Utility services support more dense development than on-site wells and septic systems, and therefore can provide for more housing and job creation per square mile. They also can result in more intensive environmental impacts, however, and a greater strain on available water resources. It is of particular concern to the Township, that utility service locations occur in the most appropriate portions of the Highlands Area and that development reliant upon wells and/or septic systems occur only at densities that can be sustained by existing environmental characteristics.

Accordingly, the below-listed goals and objectives will guide Township regulation and management of water and wastewater utilities, and use and maintenance of septic systems.

A. PRESERVATION AREA

1. To prohibit the expansion or creation of public water supply systems, wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area unless approved through a Highlands Applicability Determination (HAD) or an HPAA with waiver pursuant to the NJDEP Preservation Area rules at N.J.A.C. 7:38.
2. To identify those lands of the Preservation Area that may be appropriate for the extension or creation of public water supply systems, wastewater collection and treatment systems and community on-site treatment facilities for redevelopment that would meet the waiver requirements of the NJDEP Preservation Area rules at N.J.A.C. 7:38 regarding public health and safety or redevelopment.

B. PLANNING AREA

1. To ensure that all existing and future development in the Highlands Area using public water supply systems and wastewater collection and treatment systems are served by adequate and appropriate infrastructure.
2. To ensure that proposed public water supply and wastewater service areas will not directly or indirectly cause or contribute to a Net Water Availability deficit, and where feasible, will mitigate any deficit.

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3. To prohibit the creation or extension of public water supply systems and wastewater collection and treatment systems within the Protection Zone and the Environmentally-Constrained Sub-Zones until or unless authorized by the Highlands Council.
4. To allow for the creation or extension of public water supply systems and wastewater collection and treatment systems where appropriate within the Existing Community Zone (excluding the Environmentally-Constrained Sub-Zone) in accordance with the conditions of approval applicable to any amended Areawide Water Quality Management Plan (as authorized by the NJDEP in coordination with the Highlands Council).
 - a. The highest priority for allocation of excess or additional wastewater treatment capacity is to areas where there are clusters of failed septic systems that are located within or adjacent to Existing Areas Served.
 - b. Secondary priority for such systems should be assigned to TDR Receiving Zones, infill development, redevelopment and affordable housing projects.

C. PLANNING & PRESERVATION AREAS

1. To require that development supported by new or expanded public water supply systems and/or wastewater collection and treatment systems occur at a density and intensity that ensures efficiency and cost-effectiveness of the public infrastructure.
2. To ensure that Carbonate Rock Areas and Wellhead Protection Areas are considered and appropriately protected in the design and construction of any new or expanded wastewater collection/treatment system.
3. To ensure that on-site wastewater system discharges do not exceed the natural capacity of ground water to attenuate loadings, exacerbate existing nitrate impairment, or contribute to potential nitrate impairment for subwatersheds of the Highlands Area.
4. To ensure that all development in areas not served by public water supply or wastewater collection and treatment systems is at a density that can be supported by on-site wells and subsurface septic systems, respectively. With respect to septic systems, to determine such densities on the basis of median nitrate concentrations in ground water and nitrate dilution modeling.
5. To ensure the development of a Township-wide septic system management/maintenance plan.
6. To develop a Wastewater Management Plan for the Township Highlands Area.

CIRCULATION PLAN

The existing Master Plan has a Circulation Plan Element providing detailed information on existing and proposed transportation infrastructure within, or providing access to and from the municipality, including information on all modes and supporting facilities and services. This Plan supplements the existing Element, as applicable to the Highlands Area, to include the additional information and goals and objectives listed below.

The “Highlands Roadway Network” (Exhibit X) and “Highlands Transit Network” (Exhibit Y) maps together illustrate the regional transportation network and facilities of the Township Highlands Area. Municipal roadways and transportation features interface with those of the region and the state as a whole, as will be discussed and illustrated in the Circulation Plan Element for the Township Highlands Area.

The Planning Board currently anticipates, proposes and/or has identified need for modifications to the portion of the transportation system located within the Highlands Area, as listed and briefly described below:

1. Railway infrastructure improvements;
2. Transit station upgrades;
3. Bus availability/routing enhancements;
4. Parking improvements;
5. Bicycle lanes or bike trail installations;
6. Pedestrian safety enhancements;
7. Sidewalk/lighting improvements;
8. Provision of multi-modal linkages to/between community facilities;
9. Roadway infrastructure improvements.

As discussed in the ERI, future and existing development and redevelopment in the Highlands Area relies upon a complex network of roads, railways and bridges serving not only the municipality, but the county, the region and the state as a whole. A variety of modes of transportation are vital to ensuring efficient movement of people and goods, including but not limited to automobile, bus, rail, truck, bicycle and pedestrian. By promoting smart growth principles and efficient land use, the municipality and the Highlands Region as a whole can expand access to a multi-modal transportation system while protecting environmentally sensitive areas and Highlands resources.

Accordingly, the following goals and objectives shall guide the development, improvement, and on-going management of the transportation network and supporting facilities of the Township Highlands Area.

1. To ensure that transportation facilities and infrastructure are designed and located in a manner that achieves optimal efficiencies in land use and provision of service, while at the same time, protecting the environmental resources and critical environmental areas of the Highlands Area.

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2. To enhance opportunities for pedestrian and bicycle access, mobility and safety, through provision of sidewalks, walking trails, pedestrian crosswalks, bicycle lanes and trails, bicycle racks, and networked linkages that both access and connect community facilities, parks, schools and shopping areas.
3. To improve public safety through implementation of traffic calming measures in areas with high pedestrian activity.
4. To provide for safe and efficient pedestrian connections including features such as sidewalks, proper lighting, signage, shelters and “green street” initiatives such as those of the New Jersey Department of Transportation’s (NJDOT) Pedestrian Safety Initiative.
5. To enhance roadway corridors and encourage pedestrian activity, where appropriate, by installation of ample sidewalk areas with aesthetic enhancements such as street trees, decorative lighting, and benches.
6. To promote safe routes for children to travel to and from school, potentially with the financial and technical assistance of NJDOT’s Safe Routes to School Program.
7. To optimize use of existing roadway capacity by appropriate means, such as increased bus, van, jitney and car pool ridership.
8. To identify roadways designated as scenic byways and, to the extent of municipal jurisdiction, to protect and preserve their defining characteristics in conjunction with the scenic viewsheds they provide access to.
9. To recognize and support the unique needs of the agricultural industry to move farm vehicles and goods along transportation corridors, and to establish safe travel routes for farmers and agri-tourism, as appropriate in the Highlands Area, to ensure the safety and viability of farming as an occupation.
10. To evaluate the potential growth-inducing effects of roadway improvements that will increase traffic capacity, such as substantial new land use, new residents or new employment.
11. To prohibit road improvements in areas for which a Growth-Inducing Study demonstrates that proposed improvements do not support the resource protection and smart growth policies otherwise established by the Highlands Element, or that are likely to be growth-inducing for lands with limited or no capacity to support human development without adverse impact on Highlands Area resources.
12. To limit road improvements where roads are constrained by topography, adjacent forested lands, or other sensitive environmental features such as critical habitat.
13. To ensure that road improvements are designed to enhance community character and to avoid adverse impacts to adjoining or otherwise affected properties.

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14. To promote land use patterns that support a balance of jobs to housing as a means of reducing motor vehicle trips and average trip lengths.
15. To seek and encourage to the extent applicable, development and redevelopment in areas proximate to rail stations and along bus routes.
16. To promote development of mixed land uses, where appropriate, in locations that result in reduced motor vehicular trips and average trip lengths.
17. To permit and encourage use of shared parking areas, driveways, and other such infrastructure to limit paved surfaces and maximize efficiencies.
18. To ensure coordination between transportation planning and the Land Use Plan Element and to integrate smart growth principles into both.

LAND PRESERVATION AND LAND STEWARDSHIP PLAN

The existing Master Plan has an Open Space and Recreation Plan Element providing detailed information on existing and proposed open space preservation and recreational opportunities in the community. This Plan supplements the existing Element, as applicable to the Highlands Area, to include the additional information and goals and objectives listed below.

A mapped inventory of Preserved Lands in the Township Highlands Area, current through January 2013, appears at Exhibit Z, "Preserved Lands" (duplicated from the ERI). This Plan in addition incorporates (from the ERI) Exhibit AA, "Highlands Conservation Priority Areas," Exhibit BB, "Highlands Special Environmental Zone," Exhibit CC, "Preserved Farms, SADC Easements, All Agricultural Uses" and Exhibit DD, "Important Farmland Soils", This Plan recognizes and incorporates the definitions, derivations and delineations used to develop these maps, as provided in the ERI.

Preserved Lands in the Township Highlands Area include lands under ownership by the municipality, the county, the state, the federal government and non-profit land trusts. In addition, Preserved Lands includes dedicated easements (such as Conservation Easements) to the extent these are currently known and identified (i.e., by deed description) for mapping purposes. (The Planning Board recognizes and will address the need for a more complete inventory of all such easements after Basic Plan Conformance has been attained, with the assistance of the Highlands Council.) In total, the map indicates 7,622 acres of Preserved Lands.

Highlands Conservation Priority Area lands are those designated a high priority for preservation due to exceptional water and ecological resource value. The priority order derives from the Highlands Council Resource Assessment methodology, which identifies and ranks Highlands lands based on a combination of indicators, including but not limited to: watershed conditions, Highlands Open Waters, riparian areas, prime ground water recharge areas, forests, critical habitat and steep slopes.

Lands within the Highlands Special Environmental Zone are those having the highest priority ranking for preservation based on the Highlands Council Resource Assessment and for which development is expressly prohibited. Preservation of these lands is vital to: a) protecting Highlands Area water resources and environmentally sensitive lands; b) protecting water supply reservoirs and other critical water features; c) creating large contiguous areas of environmentally sensitive lands; d) creating habitat corridors; and e) connecting existing preserved open space.

All Agricultural Uses includes lands currently serving farming and/or other agricultural purposes, whether permanently deed restricted or not. The map of *Important Farmland Soils* provides a delineation of the four farmland soil classifications as prepared by the U.S. Department of Agriculture (USDA), NRCS, Soil Survey Geographic Database for farmland soil quality, including:

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- a) Prime Farmland Soils - Soils having the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops. It has the soil quality, growing season, and moisture supply needed to produce high yields of crops when treated and managed according to acceptable farming methods. Prime farmland soils are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.
- b) Soils of Statewide Importance – Soils that produce high yields of crops when treated and managed according to acceptable farming methods. This soil may support yields as high as Prime farmland if conditions are favorable.
- c) Unique Farmland Soils - Soils used for special crops (such as cranberries in the New Jersey Pinelands). Unique soils are determined on a statewide basis by the State Soil Conservation Committee.
- d) Locally Important Farmland Soils - Soils designated and ranked by the County Agriculture Development Board. Farmland of Locally Important soils include those soils that are not Prime or of Statewide Importance and are used for the production of high value food, fiber, or horticultural crops.

The following goals and objectives will guide the future identification, prioritization, dedication, and stewardship of Preserved Lands in the Township Highlands Area:

- 1. To recognize and consider Highlands Council prioritization criteria in addition to existing Township criteria, in making determinations regarding non-agricultural Land Preservation (whether by fee simple or easement dedication). Highlands priorities are ordered as follows:
 - a. Lands within the Highlands Special Environmental Zone;
 - b. Lands within Highlands Conservation Priority Areas; and
 - c. Lands within Highlands Resource Areas generally, including but not limited to forested portions of Forest Resource Areas, Critical Habitat Areas, and Riparian Areas, particularly any portion of a Resource Area designated as “High Integrity” or “High Resource Value.”
- 2. To maintain a current Recreation and Open Space Inventory (ROSI) where required by the NJDEP Green Acres Program.
- 3. To seek ways to establish and fund local land acquisition for preservation and stewardship programs or to expand existing open space and stewardship programs.
- 4. To identify lands subject to stewardship programs within this Land Preservation and Land Stewardship Plan and to provide that information to the Highlands Council.
- 5. To require that conservation or land stewardship easements imposed during the course of development applications be enforceable by the Highlands Council and at

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least one of the following entities, as qualified and amenable in accordance with the particular circumstances: the Township, the County Agriculture Development Board, the SADC, Green Acres, or a non-profit land trust organized pursuant to § 501 (c)(3) of the federal tax code and engaged in the protection of land for the purpose of providing long-term stewardship of land resources.

6. To establish a stewardship and monitoring program for preserved lands owned by or dedicated to the Township. This objective may be accomplished with the assistance of a non-profit land trust organized pursuant to § 501 (c)(3) of the federal tax code and engaged in the protection of land for the purpose of providing long-term stewardship of land resources.
7. To develop and implement a Forest Management Plan or Forest Stewardship Plan consistent with the standards of the NJ Forest Stewardship Program for application to municipally-owned forest lands.
8. To ensure periodic monitoring of easement restrictions protecting Critical Habitat Areas, associated species and ecological communities from any changes in land use or management practices that would impair these resources.
9. To implement Riparian Area restoration practices on Preserved Lands that give priority to ecological and watershed protection measures.
10. To identify and preserve opportunities for outdoor recreation, including a variety of active and passive recreation options, in such locations and in such manner as to ensure environmental resource protections, while addressing the needs of the local population for physical activity, social interaction, connection with nature and the natural environment, and enjoyment of the outdoors.
11. To promote the Right to Farm Act and to incorporate land use regulations that are consistent with and further its intents and purposes.
12. To promote the long-term viability of the local agricultural industry by promoting and utilizing existing county, state, and federal agriculture related programs and developing land use regulations and programs where appropriate, in support of direct marketing, organic farming, niche markets, agri-tourism initiatives such as farmers' markets and roadside stands (located on or off the site of an active farm), ancillary business opportunities, community supported agriculture, and other such projects, programs, or activities.

COMMUNITY FACILITIES PLAN

The existing Master Plan has a Community Facilities Plan Element providing detailed information on all existing community facilities, including but not limited to government offices, fire, police, and rescue squad facilities, parks and playgrounds, educational facilities, libraries, public works facilities and yards, treatment works, storage depots, and so forth. This Plan supplements the existing Element, as applicable to the Highlands Area, to include the additional goals and objectives listed below.

The overriding policy of this Plan is to ensure that community facilities reflect community needs while minimizing resource impacts and maximizing the efficiency of resource use. Achieving this aim requires attention to the design and location of community facilities. Accordingly, the below-listed goals and objectives will guide community facilities in the Township.

1. To locate and maintain community facilities and services that support compact development patterns and shared services, and provide a high level of service.
2. To identify existing and planned community facilities and to encourage shared service opportunities, whether at intra- or inter-municipal levels.
3. To identify for all such facilities, realistic options to enhance energy efficiencies, incorporate “green” building materials and technologies, reduce pollutant emissions, and minimize “carbon footprints;” and to develop a community strategy for implementing them.
4. To consider and incorporate all feasible Low Impact Development techniques in the design, development, operation and management of existing and proposed community facilities. (For description and discussion of LID techniques, see Conservation Plan Element.)
5. To incorporate the goals, objectives and resource protections discussed throughout this Highlands Element into the planning and development of properties and facilities under municipal jurisdiction.

SUSTAINABLE ECONOMIC DEVELOPMENT PLAN

A sustainable economy is important to the well-being of the Township and the wider economic region of which it is a part. It is the intent of the Planning Board to examine this issue and to prepare an economic development plan for future adoption, which will set forth strategies for strengthening the local economy and/or the municipal contribution toward the wider economy to which it belongs.

The goals and objectives of the Sustainable Economic Development Plan in addition include, but are not limited to:

1. To develop appropriate strategies to improve the local tax base and create jobs and economic opportunities, while remaining consistent with the other policies and objectives of the Highlands Element.
2. To ensure opportunities for home office, entrepreneurial and other small business activities, as appropriate.
3. To identify appropriate opportunities for development and/or redevelopment, including possible brownfield redevelopment that may further the goal of economic sustainability.
4. To encourage development of small business incubator programs, particularly those focused on advancing specific goals and objectives of the Highlands Element, such as initiatives in compact design, native species landscaping, Low Impact Development, energy efficiency and resource conservation.
5. To coordinate with the Highlands Council and other applicable state and/or county agencies to develop or participate in eco-, agri-, and/or heritage tourism programs, as appropriate.

HISTORIC PRESERVATION PLAN

The existing Master Plan does not have an Historic Preservation Plan Element setting forth the applicable goals and objectives, criteria for historic designation, and specific properties of historic interest in the community. It is the intent of the Planning Board to fully develop and adopt such an Element, applicable at minimum to the Highlands Area. Until such time as that task is complete, the narrative herein shall serve as the Historic Preservation Plan Element.

A. HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES

The Township survey of historic sites appears as a map within the ERI, which is duplicated herein at Exhibit EE, "Historic, Cultural, and Archaeological Resource Inventory." The specific list of affected properties and a brief discussion pertaining to each is provided below. The list comes directly from the Highlands Region Historic, Cultural, and Archaeological Resources Inventory (as of June 2011), which includes: 1) all properties listed on the State or National Register of Historic Places; 2) all properties which have been deemed eligible for listing on the State or National Register; and 3) all properties for which a formal State Historic Preservation Office (SHPO) opinion has been issued.

This Plan recognizes that the historic, cultural and archaeological resources of the Highlands Area form an essential component of its character and aesthetic quality. They preserve a part of the history of the Township Highlands Area and provide a link to its past. They remind us of significant people, places and events in our history and they provide vital information about what life was like in this community in earlier times.

[Municipalities that anticipate adoption of historic preservation ordinances should consider inclusion of the language hereunder, denoted as "Alternative 1." Adoption of such ordinances is encouraged but not required. For those that do not intend to adopt historic preservation ordinances, please use the language provided in the section denoted "Alternative 2," which follows below. Township will finalize prior to adoption. Language will be revised accordingly.]

[Alternative 1:] Accordingly, the below-listed goals and objectives shall apply to the future preservation of Historic, Cultural, and Archaeological resources in the Highlands Area.

1. To ensure that human development does not adversely affect the character or value of resources which are listed on the Historic and Cultural Resource Inventory to the maximum extent practicable.
2. To require that all development and redevelopment applications include submission of a report identifying potential historic, cultural and archaeological resources on the subject property or immediately adjacent properties.
3. To ensure that historic, cultural and archaeological resources identified through the development review process are: a) evaluated for inclusion on the survey of historic

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sites within this document; and b) submitted to the Highlands Council for possible inclusion in the Highlands Region Historic and Cultural Resources Inventory.

4. To ensure that the impact of proposed human development on the historic and cultural resources of the Highlands Area is addressed during development review.
5. To at minimum utilize State and National Register criteria, as applied at the local level, in considering sites and districts for historic designation.
6. To use the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties as guidance for historic and cultural preservation review and to seek and encourage preservation and adaptive re-use of historic structures.

[Alternative 2:] Accordingly, the below-listed goals and objectives shall apply to the Historic, Cultural, and Archaeological resources in the Highlands Area.

1. To examine the character and qualities of the community's Historic, Cultural, and Archaeological resources to gain further understanding of the extent of their contributions to the aesthetics, character, economic vitality, and sense of place of the community.
2. To consider the educational value of the community's Historic, Cultural, and Archaeological resources and encourage opportunities to celebrate and share information about the community's heritage.
3. To consider the character and qualities of the community's Historic, Cultural, and Archaeological resources in any development application that may affect them, whether directly or indirectly.
4. To examine the potential for development and adoption of regulatory provisions that are protective of the Historic, Cultural, and Archaeological resources of the community.
5. To consider the character and qualities of the community's Historic, Cultural, and Archaeological resources in development of the Land Use Plan, Community Facilities Plan, Circulation Plan, and all other aspects of the Highlands Element.

The following sites, districts and properties are listed in the Highlands Historic and Cultural Resources Inventory:

1. Ford-Faesch Manor House (SHPO ID#2239)
2. Ground Bee Rockshelter Archaeological Site (28-Mr-220) (SHPO ID#2245)
3. Hibernia Methodist Episcopal Church (SHPO ID#2240)
4. Hibernia Historic District (SHPO ID#4015)
5. Lake Denmark Road Historic Homestead Site (SHPO ID#2241)

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6. Looker-Lyon Farm (SHPO ID#5045)
7. Morris Canal (SHPO ID#2784)
8. Mount Hope Mine Historic District (SHPO ID#2242)
9. Bed of the Mount Hope Mine Railroad (SHPO ID#2243)
10. NARTS Area D Cold War Historic District (SHPO ID#4887)
11. Old Main Delaware, Lackawanna and Western Railroad Historic District (SHPO ID#3525)
12. Picatinny Arsenal 600 Ordinance Testing Area District (SHPO ID#4286)
13. Picatinny Arsenal Administration and Research District (SHPO ID#2244)
14. Picatinny Arsenal Navy Commander's Quarters (Building 3250) (SHPO ID#4288)
15. Picatinny Arsenal Stable (Building 3316) (SHPO ID#2252)
16. Picatinny Arsenal Test Area E, Naval Air Rocket Test Station District [NARTS Area E] (SHPO ID#4287)
17. 1500 Rocket Test Area Historic District (SHPO ID#4913)
18. Snake Hill Road Historic Homestead Site (SHPO ID#3588)
19. Split Rock Furnace (SHPO ID#2246)

B. SCENIC RESOURCES

The Township baseline survey of scenic resources appears at Exhibit FF, “Baseline Scenic Resources Inventory,” duplicated from the ERI. The specific list of affected properties and a brief discussion pertaining to each is provided below. The list comes directly from the Highlands Council as a first-step inventory of Scenic Resources having potential for local and/or regional designation. It includes national historic landmarks and federal, state and county publicly-owned parks, forests, and recreation areas.

The Highlands Council also adopted a Procedure for Nomination, Evaluation and Inventory of Highlands Regionally Significant Scenic Resources which establishes the process for formal nomination and inclusion of additional scenic resources in the Highlands Scenic Resource Inventory. The process requires the adoption and implementation of management plans to ensure that the scenic resources are protected and maintained.

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This Plan recognizes the value and importance of scenic resources in preserving the aesthetic qualities of the Township Highlands Area. Accordingly, the below-listed goals and objectives shall apply to the future management of Scenic Resources in the Highlands Area.

1. To ensure that human development does not adversely affect the character or value of resources which are listed on the Highlands Scenic Resources Inventory.
2. To require that the impact of proposed human development on the scenic resources of the Highlands Area be addressed during local development review.
3. To utilize Highlands Scenic Resource designation standards, as applied at the local level, in considering scenic resources for designation.
4. To require that all development applications include identification of any scenic resources in the Highlands Region that are listed on the Highlands Scenic Resources Inventory and may be affected by the proposed development.
5. To develop regulatory standards to protect Scenic Resources from negative impacts due to development.
6. To develop minimum standards for the protection and enhancement of the Scenic Resources listed in the Highlands Scenic Resources Inventory.

The following locations are listed in the Highlands Scenic Resources Inventory:

- a) Farny State Park
- b) Wildcat Ridge Wildlife Management Area
- c) Mount Hope Historical Park

DEVELOPMENT TRANSFER PLAN

The MLUL provides for inclusion of a Development Transfer Plan Element setting forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program. It is the intent of the Planning Board to investigate and consider the opportunity to fully develop and adopt such an Element, in accordance with the information and goals and objectives listed below.

Transfer of Development Rights (TDR) is a land use tool that permits the transfer of development potential from areas identified for preservation, called sending zones, to areas that are appropriate to accommodate increased growth, called receiving zones. Landowners in the sending zones receive compensation for the transferable development potential of their property once it has been restricted for preservation. Payment is provided through purchasers who buy credits representing the transferred development potential of parcels in the sending zones. The credits entitle the purchaser to build in a receiving zone at a density or intensity greater than that permitted under existing zoning.

The TDR program, if opted into, must be established and administered in accordance with the requirements set forth in the Highlands Regional Master Plan. A TDR program involving lands located within the Township Highlands Area will require approval from the Highlands Council. The Highlands Council has established "Highlands Development Credits" (HDCs) representative of the transferable development rights, and a Highlands Development Credit Bank through which such credits may be bought and sold. The municipality may seek technical assistance from the Highlands Council regarding TDR requirements, along with grant funding to explore the feasibility of establishing a TDR receiving zone. Under the Highlands TDR Program, the municipality may limit the use of HDCs to intra-municipal transfers in designated Receiving Zones, if approved by the Highlands Council.

The following goals and objectives will apply to the municipal TDR program if developed or expanded to affect lands located within the Township Highlands Area:

1. To use transferable development rights to guide growth and development away from ecologically sensitive and/or agriculturally important lands and towards lands which have the capacity to support additional human development without compromising the ecological integrity of the Highlands Area.
2. To use TDR to maximize the preservation of Preservation Area properties outside of the Existing Community Zone or a Highlands Redevelopment Area, with emphasis on properties with the highest Conservation Priority scores.
3. To recognize and consider Highlands Council designation of all lands within the Preservation Area, except those in the Existing Community Zone and any approved Highlands Redevelopment Area, as eligible to serve as Sending Zones in accordance with the Highlands TDR Program.
4. To recognize and consider Highlands Council designation of all lands within the Planning Area, except those in the Existing Community Zone or within any approved

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Highlands Redevelopment Area, as eligible to serve as Sending Zones in accordance with the Highlands TDR Program.

5. To exclude lands located within the Existing Community Zone or within any approved Highlands Redevelopment Area from consideration for allocation of HDCs in accordance with Highlands Council prohibitions.
6. To incorporate information provided by the Highlands Council concerning the allocation of HDCs to individual Sending Zone parcels, which will vary according to location within the Highlands Region, comparative development potential, and whether a Sending Zone landowner chooses to exercise an applicable Highlands Act exemption.
7. To designate upon Highlands Council approval, where appropriate and in keeping with municipal development objectives, lands located within the Existing Community Zone or Highlands Redevelopment Areas as Receiving Zones.

RELATIONSHIP OF MASTER PLAN TO STATE/REGIONAL/LOCAL PLANS

By adoption of this Highlands Element, the Township Master Plan is brought into alignment with the Highlands Regional Master Plan (RMP). The Highlands Element incorporates all of the policies, goals, and objectives of the Highlands RMP that are relevant to the use and development of land in the Township Highlands Area. The Highlands Element calls for the development and adoption of various land use regulations and specific environmental management plans, which together will effectuate its vision and in so doing, advance the intents and purposes of the Highlands RMP.

The Highlands Act provides that any portion of a municipality located in the Highlands Preservation Area is exempt from the State Planning Commission (SPC) Plan Endorsement process. It provides further that once the RMP has attained Plan Endorsement from the SPC for the Planning Area, Highlands Council approval of Plan Conformance with respect to lands in the Planning Area shall be deemed the equivalent of Plan Endorsement.

By aligning the municipal Master Plan with the Highlands RMP, its consistency with the State Development and Redevelopment Plan (SDRP) is achieved. A map depicting the municipality's SDRP Planning Areas appears at Exhibit GG. The Highlands Element furthers SDRP policies, goals, and objectives in many ways, not least of which are the following:

1. Seeking to protect, preserve, restore, and enhance the natural resources of the Highlands Area;
2. Encouraging the use of smart growth principles in locations of the Area deemed appropriate for development and/or redevelopment;
3. Protecting historic, cultural and aesthetic resources;
4. Encouraging a sustainable local economy;
5. Protecting agricultural resources, supporting local agricultural businesses, and promoting sustainable agricultural practices;
6. Preserving open space and providing for an array of active and passive recreational opportunities; and
7. Ensuring a viable and well-integrated transportation network that incorporates and encourages multi-modal options and efficiency of land use.

The Highlands Element modifies the relationship of the Township development plan to those of the county and contiguous municipalities insofar as it affects the intents for land use and development within the Township Highlands Area. Given that the Highlands Element introduces a substantial number of new constraints to development based on environmental resources and carrying capacities, it is anticipated that the future impacts from development of the Highlands Area will be reduced from previous trends. A complete understanding will not exist however, until further analysis is undertaken to determine the full impacts of conformance with the RMP on the municipal Land Use Plan. An important component of that analysis will be in regard to watershed-based planning. To the extent

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that the Township shares a HUC14 subwatershed with other municipal and/or county entities, a cooperative planning effort involving all parties will be vital to ensuring sound use and management of the available water resources. It will also be important to understand which, if any, of the adjoining municipalities and/or the county conform to the Highlands RMP and for what portions of their land areas. The land uses, the permitted densities and intensities of development, and the locations and extent of anticipated growth in neighboring Highlands communities that are also pursuing conformance with the RMP are all subject to change. Until information is available concerning such decision-making, a comparison between these master plans will not be meaningful. Further discussion of these aspects will therefore be provided in the next amendment to the Master Plan.

ACRONYMS

| | |
|-------|--|
| ERI | Environmental Resource Inventory |
| EDU | Equivalent Dwelling Unit |
| FAR | Floor Area Ratio |
| GIS | Geographic Information Systems |
| HAD | Highlands Applicability Determination |
| HDC | Highlands Development Credit |
| HPAA | Highlands Preservation Area Approval |
| HUC | Hydrologic Unit Code |
| LID | Low Impact Development |
| MLUL | Municipal Land Use Law (of the State of New Jersey) |
| NJDA | New Jersey Department of Agriculture |
| NJAC | New Jersey Administrative Code |
| NJDEP | New Jersey Department of Environmental Protection |
| NJDOT | New Jersey Department of Transportation |
| NJSA | New Jersey Statutes Annotated |
| NPS | Nonpoint Source |
| NRCS | Natural Resources Conservation Service |
| PCS | Potential Contaminant Source |
| PGWRA | Prime Ground Water Recharge Area |
| RMP | Regional Master Plan (of the New Jersey Highlands Water Protection and Planning Council) |
| ROSI | Recreation and Open Space Inventory |
| SADC | State Agriculture Development Committee |
| SCD | Soil Conservation District |
| SDRP | State Development and Redevelopment Plan |
| SHPO | State Historic Preservation Office |
| SPC | State Planning Commission |
| TDR | Transfer of Development Rights |
| TMDL | Total Maximum Daily Load |
| TSP | Technical Service Provider |
| USDA | United States Department of Agriculture |
| WHPA | Wellhead Protection Area |

EXHIBITS

- A.** Township Highlands Area
- B.** Township Land Use Inventory
- C.** Highlands Contaminated Sites Inventory
- D.** Forest Resource Area
- E.** Total Forest Area
- F.** Forest Subwatersheds
- G.** Highlands Open Waters
- H.** Highlands Riparian Areas
- I.** [Reserved]
- J.** [Reserved]
- K.** Steep Slope Protection Areas
- L.** Critical Wildlife Habitat
- M.** Significant Natural Areas
- N.** Vernal Pools
- O.** Carbonate Rock Areas
- P.** Lake Management Area
- Q.** Net Water Availability
- R.** Prime Ground Water Recharge Areas
- S.** HUC 14s on NJDEP Impaired Waters List
- T.** Wellhead Protection Areas
- U.** Public Community Water Systems
- V.** Highlands Domestic Sewerage Facilities
- W.** [Reserved]
- X.** Highlands Roadway Network
- Y.** Highlands Transit Network
- Z.** Preserved Lands
- AA.** Highlands Conservation Priority Areas
- BB.** Highlands Special Environmental Zone
- CC.** Preserved Farms, SADC Easements, All Agricultural Uses
- DD.** Important Farmland Soils
- EE.** Historic, Cultural, and Archaeological Resource Inventory
- FF.** Baseline Scenic Resources Inventory
- GG.** SDRP Planning Areas

APPENDIX A MAJOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations and NJDEP regulations) to be Major Potential Contaminant Sources include the following:

1. Underground fuel and chemical storage and oil tanks regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.).
2. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
3. Automotive service center (repair & maintenance).
4. Dry cleaning processing facility.
5. Road salt storage facility.
6. Cemetery.
7. Highway maintenance yard.
8. Truck, bus, locomotive maintenance yard.
9. Site for storage and maintenance of heavy construction equipment and materials, excluding household storage and maintenance of such equipment.
10. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.
11. Livestock operation containing 300 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] as defined by the NJ Department of Agriculture in its Criteria and Standards for Animal Waste Management, at NJAC 2:91.
12. Quarrying and/or mining facility.
13. Asphalt and/or concrete manufacturing facility.
14. Junkyard/auto recycling and scrap metal facility.
15. Residential or agricultural motor fuel in NJDEP exempted underground storage tanks (i.e., under 1,000 gallons).

APPENDIX B MINOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations and NJDEP regulations) to be Minor Potential Contaminant Sources include the following:

1. Underground storage of hazardous substance or waste of less than 50 gallons.
2. Underground heating oil storage tank with a capacity of less than 2,000 gallons.
3. Sewage treatment facility regulated by a NJPDES permit granted under NJAC 7:14A.
4. Industrial waste line.
5. Septic system disposal field.
6. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
7. Stormwater retention-recharge basin on an industrial property receiving runoff from surfaces other than roof areas.
8. Dry well on an industrial property receiving runoff from surfaces other than roof areas.
9. Waste oil collection, storage and recycling facility.
10. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
11. Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
12. Livestock operation containing 8 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] or those receiving 142 or more tons of animal waste per year as defined by the NJ Department of Agriculture pursuant to its Criteria and Standards for Animal Waste Management, at NJAC 2:91.
13. *[Optional – Insert other Potential Contaminant Sources of similar nature that are not listed in (1) through (14) above, or as Major Potential Contaminant Sources in Appendix B, but are of concern to the municipality. Township will address prior to adoption.]*



DRAFT APPROVED BY THE HIGHLANDS COUNCIL

DRAFT Township of Rockaway Highlands Area Land Use Ordinance

Prepared by the State of New Jersey Highlands Water Protection and Planning Council in Support of the Highlands Regional Master Plan **January 2013**

Please Note: This document should be read in concert with the Final Consistency Review and Recommendations Report prepared by Highlands Council Staff for the municipality. Prior to adoption: a) this cover page may be replaced in its entirety with one using the municipality's formatting and logo; b) the minor items noted within the document should be addressed and finalized; and c) all instructional text should be removed.

HIGHLANDS AREA LAND USE ORDINANCE

A Supplement to the Land Use Ordinances of

TOWNSHIP OF ROCKAWAY

MORRIS COUNTY, NEW JERSEY

**DRAFT for submission to the New Jersey Highlands Water
Protection and Planning Council toward achieving plan
conformance with the Highlands Regional Master Plan**

DATE: January 2013

This document is based on a model Highlands Land Use Ordinance prepared and provided to all Highlands municipalities by the New Jersey Highlands Water Protection and Planning Council.

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**TOWNSHIP OF ROCKAWAY
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ARTICLE 1. TITLE, PURPOSE, SCOPE

§ 1.1 SHORT TITLE

This Ordinance shall be known and cited as the “Township of Rockaway Highlands Area Land Use Ordinance.”

§ 1.2 PURPOSE

The purpose of this Ordinance is to effectuate the policies, goals and objectives of the Township Master Plan, in particular the Highlands Element of the Master Plan, while at the same time advancing the purposes of zoning as set forth in the New Jersey Municipal Land Use Law (“MLUL”, N.J.S.A. 40:55D-1 et seq.), addressing the substantive goals and intents of the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.), and satisfying the goals, requirements and provisions of the Highlands Regional Master Plan (RMP).

§ 1.3 SCOPE

The provisions of this Ordinance pertain to the use and development of lands located within the Township Highlands Area. The Highlands Area comprises that portion of the municipality for which the applicable provisions of the Township Master Plan, land use ordinances and other pertinent regulations have been deemed by the New Jersey Highlands Water Protection and Planning Council (“Highlands Council”) to be in conformance with the Highlands RMP. This Ordinance governs certain land uses, development and redevelopment activities, and the management and protection of resources, including but not limited to water resources, natural resources, agricultural resources, [and] scenic resources[and *if applicable*: historic, cultural and archaeological resources][*Township will address “if applicable” language prior to adoption.*]. The provisions of this Ordinance shall apply in conjunction with all other applicable ordinances, rules and regulations of the municipality. In the event of conflicting or less restrictive alternate provisions, the provisions of this Ordinance shall supersede.

§ 1.4 STATUTORY AUTHORITY

This Ordinance is adopted under the authority of the MLUL and the Highlands Act. The Highlands Act provides authorities and responsibilities for municipal planning and development regulation that are complementary to those set forth under the MLUL. The MLUL gives authority to New Jersey municipalities to govern land use and development within their borders. The Highlands Act augments that authority to allow the municipality the power to enforce the goals, policies, objectives and programs of the Highlands RMP. The Highlands Act is designed to protect the natural and agricultural resources of the Highlands through a coordinated system of regional land use controls. The Highlands Act creates a system in which a regional plan is implemented primarily through local government units. The Highlands Act and the RMP together provide the regional perspective from which local decisions and actions will emanate.

§ 1.5 SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no way affect the validity of the ordinance as a whole, or of any other portion thereof.

§ 1.6 EFFECTIVE DATE

This Ordinance shall take effect after final passage and publication in the manner required by law.

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ARTICLE 2. APPLICABILITY

§ 2.1 APPLICABILITY

The requirements of the Highlands Area Land Use Ordinance shall apply solely to the use and development of lands located within the Township Highlands Area. Specifically, this Ordinance shall apply to any application seeking approval of a site plan, subdivision, or change in use where approval of such application would: a) result in the ultimate disturbance of one (1) acre or more of land; b) produce a cumulative impervious surface area of one-quarter (1/4) acre, or more; c) introduce or expand a use not permitted by this Ordinance; or d) in the case of residential development, create three or more dwelling units; where the phrases “residential development,” “ultimate disturbance,” and “cumulative impervious surface area” are defined as provided at § 3.2. The provisions of this Ordinance shall apply in conjunction with and as a supplement to the existing Zoning Ordinance, development regulations, and all other rules, codes and regulatory provisions governing the use and development of land in the municipality. In the event of conflicting provisions, the provisions of this Ordinance shall supersede. Where provisions differ only by degree, the more restrictive of the applicable requirements shall supersede.

§ 2.1.1 Exclusions

The exclusions listed herein below, consist of specific activities, improvements, and development projects, to which the provisions of this Ordinance shall not apply. These exclusions shall not be construed to apply across-the-board to any lot, tract or other division of land, whether existing or proposed as of the effective date of this Ordinance. Neither shall such exclusions be construed to alter, obviate or waive the requirements of any other applicable state or local law, rule, regulation, development regulation or ordinance. This would include, for example, the bulk requirements of the municipal zoning ordinance (e.g., yard and area requirements), the rules and regulations applicable to issuance of building permits, or the requirements of any municipal ordinance regulating the operation and maintenance of on-site septic systems.

- A. This Ordinance shall not apply to reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
- B. This Ordinance shall not apply to any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.
- C. Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2).
- D. This Ordinance shall not apply to any activity, improvement, or development project specifically listed as a Highlands Act Exemption at N.J.S.A. 13:20-28. The applicable Highlands Act Exemptions include those listed below.
 - 1. *Highlands Act Exemption 4.* The reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use.

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- a. For purposes of this Ordinance, this exemption shall not be construed to permit multiple 125% footprint expansions, but rather, to permit one or more reconstruction activities cumulatively resulting in a maximum 125% increase in the footprint of the impervious surfaces lawfully existing on the site, provided they do not cumulatively exceed the one-quarter acre limitation.
 - b. For purposes of this Ordinance, the applicable date of lawful existence shall, for the Preservation Area, coincide with the date of enactment of the Highlands Act (August 10, 2004), and for the Planning Area, the effective date of this Ordinance or of the Highlands Checklist Ordinance, whichever is the earlier.
 - c. For purposes of this Ordinance, these provisions shall not be construed to exempt any change in use of such reconstructed building or structure from the applicable provisions of this Ordinance.
2. *Highlands Act Exemption 6.* Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.
 3. *Highlands Act Exemption 7.* An activity conducted in accordance with an approved woodland management plan pursuant to section 3 of the “Farmland Assessment Act,” P.L.1964, c.48 (C.54:4-23.3) or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester.
 4. *Highlands Act Exemption 8.* The construction or extension of trails with non-impervious surfaces on privately owned lands where a conservation or recreational use easement has been established.
 5. *Highlands Act Exemption 14.* The mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004.
 6. *Highlands Act Exemption 15.* The remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.).

§ 2.2 MAJOR HIGHLANDS DEVELOPMENT

Any proposed project, development or activity that meets the definition of a Major Highlands Development (see Definitions, § 3.2) is subject to all applicable requirements and provisions of the New Jersey Department of Environmental Protection (NJDEP) Highlands Water Protection and Planning Act Rules (“NJDEP Preservation Area Rules,” N.J.A.C. 7:38-1 et seq.). By definition, such projects, developments and activities pertain solely to the Preservation Area of the Highlands Region. Nothing in this Ordinance shall be construed to waive, obviate, modify or otherwise exempt any covered project, development or activity, or any person(s) proposing or involved in such initiatives, from the provisions of the NJDEP Preservation Area Rules.

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§ 2.3 PRIOR DEVELOPMENT APPROVALS

§ 2.3.1 Preservation Area

Any developer/owner/applicant (as applicable) associated with a development application that has received lawful approval(s) pursuant to the MLUL since the date of enactment of the Highlands Act (August 10, 2004) but prior to the effective date of this Ordinance, shall retain all of the rights and protections accorded and prescribed under the MLUL with regard to such approval(s). These protections shall apply to the specific land area and scope of the approvals granted, in accordance with any conditions attached thereto, subject to the approvals of any applicable state, county or other outside agency having jurisdiction thereon including the NJDEP and specifically, the NJDEP Preservation Area Rules (NJAC 7:38) applicable to the Highlands Preservation Area, and shall expire if (and in such event, when) such approval expires. The provisions of this Ordinance shall not be construed to alter or infringe upon such unexpired approvals, and any nonconforming development ultimately resulting from such approvals shall be permitted to continue in accordance with all applicable MLUL provisions concerning nonconforming uses, buildings and structures (pursuant to § 2.4, below).

§ 2.3.2 Planning Area

Any developer/owner/applicant (as applicable) associated with a development application that has received lawful approval(s) pursuant to the MLUL prior to the effective date of this Ordinance, shall retain all of the rights and protections accorded and prescribed under the MLUL with regard to such approval(s). These protections shall apply to the specific land area and scope of the approvals granted, in accordance with any conditions attached thereto, subject to the approvals of any applicable state, county or other outside agency having jurisdiction thereon, and shall expire if (and in such event, when) such approval expires. The provisions of this Ordinance shall not be construed to alter or infringe upon such unexpired approvals, and any nonconforming development ultimately resulting from such approvals shall be permitted to continue in accordance with all applicable MLUL provisions concerning nonconforming uses, buildings and structures (pursuant to § 2.4, below).

§ 2.4 NONCONFORMING USES, BUILDINGS AND STRUCTURES

Any nonconforming use, building or structure lawfully existing at the time of passage of this Ordinance shall be permitted to continue upon the lot or within the structure it so occupies, and any such structure may be restored or repaired in the event of its partial destruction, in accordance with the provisions of the MLUL and the underlying municipal Zoning Ordinance. For purposes of this Ordinance, the words, “restored” and “repaired,” shall in no case be construed to mean “expanded.”

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ARTICLE 3. DEFINITIONS

§ 3.1 WORD USAGE

Terms used in the body of this Ordinance which are defined by the Highlands Act are intended to have the same definitions as provided in the Highlands Act. Unless expressly stated to the contrary or alternately defined herein, terms which are defined by the MLUL are intended to have the same meaning as set forth in the MLUL. For purposes of this Ordinance, the terms “shall” and “must” are indicative of a mandatory action or requirement while the word “may” is permissive.

§ 3.2 DEFINITIONS

For purposes of this Ordinance the following definitions shall apply:

Agricultural or Horticultural Development – Construction for the purposes of supporting common farmsite activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Agricultural or Horticultural Use – The use of land for common farmsite activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Agricultural Impervious Cover – Agricultural or horticultural buildings, structures or facilities with or without flooring, residential buildings and paved areas, but not meaning temporary coverings.

Applicant – Any entity applying to the Board of Health, Planning Board, Zoning Board of Adjustment, Zoning Officer, Construction Official or other applicable authority of the municipality for permission or approval to engage in an activity that is regulated by the provisions of this Ordinance.

Application for Development – The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permits pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

Aquifer – A geologic formation, group of formations, or partial formation containing saturated permeable rock, sand or gravel sufficient to store and transmit usable quantities of water to wells and springs.

Archaeological Resources – Any material remains of past human life or activities which are of archaeological interest, such as tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items.

Best Management Practices (BMP) – Structural or nonstructural methods used to prevent or reduce the movement of sediment, nutrients, pesticides and other pollutants from the land to surface or ground water.

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Building Permit – Used interchangeably with the term “Construction Permit;” see definition below.

CADB – County Agriculture Development Board

Carbonate Rock – Rock consisting chiefly of calcium and magnesium carbonates, such as limestone and dolomite.

Clear-Cutting – A forestry or logging practice in which most or all of the trees in a harvest area are cut down.

Community Based On-Site Wastewater Facilities – Sanitary sewerage treatment facilities (i.e., domestic treatment works) that discharge treated wastewater to ground waters as regulated by a NJPDES permit under N.J.A.C. 7:14, which provide service to one or more parcels that are approved and constructed as a single development or planned development.

Conditional Water Availability – The amount of water availability allowed in a deficit HUC14 subwatershed, subject to certain mitigation requirements, as determined by the Highlands Council.

Construction Permit – A permit issued pursuant to the New Jersey Uniform Construction Code, Chapter 23 of Title 5 of the New Jersey Administrative Code (N.J.A.C. 5:23-1 et seq.), providing authorization to begin work subject to the conditions and requirements established under the provisions therein.

Consumptive Water Use – Any use of water that results in its evaporation, transpiration, incorporation into products or crops, consumption by humans or animals, or removal by any other means from a watershed or subwatershed, other than by conveyances as untreated water supply, potable water, or wastewater.

Contaminant – A substance capable of causing contamination of a water supply.

Contamination – The presence of any harmful or deleterious substances in the water supply, including but not limited to hazardous substances, hazardous wastes, and substances listed in the New Jersey Administrative Code at N.J.A.C. 7:9C (Ground Water Quality Standards), N.J.A.C. 7:9B (Surface Water Quality Standards) and N.J.A.C. 7:10 (NJ Safe Drinking Water Act Regulations), and as these regulations may be amended from time to time.

Cultural Resources – Sites, artifacts, or materials that relate to the way people live or lived, for example, archaeological sites, rock carvings, ruins, and the like. These resources are generally defined based on existing documentation or artifacts discovered relating to activities of people who lived, worked, or recreated in an area during a period in history.

Current Deficit Area – A HUC14 subwatershed characterized by negative Net Water Availability, meaning that existing consumptive and depletive water uses exceed the capacity of the ground water supply to sustain them.

Deforestation – The conversion of forested areas to non-forested areas, whether for use as urban land, or any other non-forest land use; disturbance of an area characterized as “forest” pursuant to the procedures provided in APPENDIX A, herein, the extent or effect of which is to disqualify the area from such designation.

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Depletive Water Use – Use of water whereby it is withdrawn from a HUC14 subwatershed and transported outside of the subwatershed (through utility conveyances as untreated water supply, potable water, or wastewater), resulting in a net loss of water to the subwatershed from which it originated.

Density – The permitted number of dwelling units per gross acre of land to be developed; or if defined by the underlying municipal Zoning Ordinance, as provided therein.

Density, Septic System – The gross acreage of land area required per individual septic system to physically contain and support its functions in keeping with the specified wastewater design flow.

Development – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the MLUL.

Discharge – Any intentional or unintentional action or omission, unless pursuant to and in compliance with the conditions of a valid and effective federal or state permit, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or lands of the state or into waters outside the jurisdiction of the state when damage may result to the lands, waters or natural resources within the jurisdiction of the state.

Dissolution – A space or cavity in or between rocks, formed by the solution of part of the rock material.

Disturbance – The placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation. (Pursuant to § 6.2.5.B of this Ordinance, when considering land for conversion to non-agricultural land uses in a Highlands Open Water buffer, historic or current agricultural land uses shall not be considered “land improvements,” “development,” “land disturbances,” or “land uses” for purposes of calculating the previously disturbed area.)

Disturbance, Ultimate – The total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Endangered Species – Species included on the list of endangered species that the NJDEP promulgates pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et seq., and the Endangered Plant Species List Act, N.J.S.A. 13:1B-15.151 et seq., and any species or subspecies of wildlife appearing on any federal endangered species list or any species or subspecies of plant designated as listed, proposed, or under review by the federal government pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

Existing Constrained Areas – Stream flows within any HUC14 subwatershed(s) upstream of a Current Deficit Area.

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Farm Conservation Plan – A site-specific plan that prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, that are determined to be practical and reasonable for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point source pollution.

Farm Management Unit – A parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

Farmland Soils, Important – Soils based on soil data prepared by the USDA NRCS including the following four classifications: Prime Farmland Soils, Farmland Soils of Statewide Importance, Unique Farmland Soils, and Farmland Soils of Local Importance.

Farmland Soils of Local Importance – Farmland of local importance includes those soils that are not prime or of statewide importance and are used for the production of high value food, fiber or horticultural crops.

Farmland Soils, Prime – Prime Farmlands include all those soils in NRCS Land Capability Class I and selected soils from Land Capability Class II. Prime Farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed according to acceptable farming methods, Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

Farmland Soils of Statewide Importance – Farmlands of statewide importance include those soils in NRCS Land Capability Class II and III that do not meet the criteria as Prime Farmland. These soils are nearly Prime Farmland and economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce yields as high as Prime Farmland if conditions are favorable.

Farmland Soils, Unique – Soils used for special crops (such as cranberries in the New Jersey Pinelands). Unique soils are determined on a statewide basis by the State Soil Conservation Committee.

Farmsite – A Farm Management Unit as defined above.

Floor Area – The area of each floor of a building lying within the inside perimeter of its exterior walls excluding vent shafts, courts, and unfinished areas such as basements or attics having ceiling heights less than that required for habitable space under the building code.

Floor Area Ratio – The sum of the area of all floors of buildings or structures compared to the total area of the site; or if defined by the underlying Zoning Ordinance, as provided therein.

Forest – A biological community as determined by the method set forth under APPENDIX A, as adapted from NJDEP Preservation Area Rules, at N.J.A.C. 7:38-3.9.

Forest Area, Upland – A biological community that is a “forest,” as defined above, and that is not located in an area designated as Highlands Open Waters (i.e., not a forested wetland or other Highlands Open Waters).

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Forest Area, Total – The percentage of total area that is covered in forest.

Forest, Core – The area and percent of a forest patch that is greater than 300 feet from a forest edge.

Forest Integrity – An expression of the application of landscape metrics to evaluate the effects of forest fragmentation across the landscape, thereby recognizing the ability of forests to provide essential ecosystem functions.

Forest Patch – A contiguous tract of forest bordered by either altered land or a road.

Forest Patch, Mean Distance to Closest (MDCP) – The average edge-to-edge distance between distinct forest patches located within a 1,000-foot search radius of one another. The MDCP provides a measure of forest patch isolation within the landscape area of interest.

Forest Management Plan – A written guidance document describing the forest resources present on a property, the landowner's management goals and objectives, and the recommended practices or activities to be carried out over time on the land. This tool is used to evaluate a forest land's current state and provide a management process which, over time, meets the landowner's objectives, while maintaining health and vigor of the resource. Forest Management Plans are typically written for a ten year period.

Ground Water – Water contained in the interconnected voids of a saturated zone in the ground. A saturated zone is a volume of ground in which the voids in the rock or soil are filled with water greater than or equal to atmospheric pressure.

Ground Water Availability – The total amount of water assigned by the Highlands Council to a HUC14 subwatershed that can be used for consumptive and depletive water uses by water uses that do not draw from water supplies with a NJDEP-approved safe yield.

Habitat Value – The value of an ecosystem area for maintenance of a healthy population of a species as determined by quantity, quality, type, and function.

Hazardous Substance – Any substance designated under 40 CFR 116 pursuant to Section 311 of the Federal Water Pollution Control Act Amendments of 1972 [Clean Water Act] (Public Law 92-500; 33 U.S.C. 1251 et seq.), the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or Section 4 of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and as these regulations may, from time to time, be amended. Substances listed include petroleum, petroleum products, pesticides, solvents and other substances.

Hazardous Waste – Any solid waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E et seq., N.J.A.C. 7:26-8, or 40 CFR Part 261.

Highlands Applicability Determination (HAD) – The determination made by the NJDEP of whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – That portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands RMP.

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Highlands Historic and Cultural Resource Inventory – The listing of historic, cultural and archaeological resources within the Highlands Region, including but not limited to: all properties listed on the New Jersey or National Register of Historic Places; all properties which have been deemed eligible for listing on the New Jersey or National Register of Historic Places; and all properties for which a formal opinion of the State Historic Preservation Office (SHPO) has been issued.

Highlands Open Waters – All springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but not including swimming pools. Highlands Open Waters include seeps, lakes, ponds, and vernal pools; all categories (including springs, streams, and wetlands) as described and defined in the Township Environmental Resource Inventory.

Highlands Open Waters Buffer – In the Preservation Area, a 300-foot buffer adjacent to Highlands Open Waters in which no disturbance is permitted, except as provided in N.J.A.C 7:38-3.6. In the Planning Area, a 300-foot buffer around all Highlands Open Waters from the edge of the discernible bank of the Highlands Open Waters feature, or from the centerline of that feature where no discernible bank exists. With respect to wetlands and other Highlands Open Waters features, the feature shall include a protection buffer of 300 feet, measured from the mapped wetlands (not from the wetlands buffer) delineated in a Letter of Interpretation or Highlands Resource Area Determination, as applicable, as provided by NJDEP.

Highlands Preservation Area Approval (HPAA) – A permit to engage in a regulated activity in the Highlands Preservation Area issued by the NJDEP pursuant to the Highlands Act and the NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38), including an HPAA that contains a waiver pursuant to N.J.S.A. 13:20-33b. Highlands Preservation Area Approval includes Highlands general permits issued pursuant to N.J.S.A. 13:20-33d and promulgated at N.J.A.C. 7:38-12. HPAA, when used in this Ordinance, includes Highlands general permits unless explicitly excluded.

Highlands Public Community Water Supply System – Public water supply systems in the Highlands Region that pipe water for human consumption to at least 15 service connections or that regularly serve at least 25 year-round residents.

Highlands Redevelopment Area – A property, portion of a property, or group of properties designated as such by the Highlands Council and which includes one or more of the following: a) a brownfield site; b) a grayfield site; and c) any previously developed site in the Highlands Region. A Highlands Redevelopment Area may include the intervening or surrounding lands which are significantly affected by or necessary to support such sites, and is subject to a Highlands Council-approved redevelopment plan setting forth the scope and details of any redevelopment project(s) and/or activities permitted to occur.

Highlands Resource Area Determination (HRAD) – A formal determination issued by the NJDEP that confirms the presence or absence of a Highlands Resource Area on a site, and if present, its location and applicable boundary lines. A person may apply for an HRAD only, or in connection with an application for an HPAA.

Highlands Scenic Resource Inventory – The inventory of regionally significant lands within the Highlands Region that encompasses elements of high scenic quality worthy of protection, as approved by the Highlands Council.

Historic District – One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

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Historic Resources – Buildings, structures, objects, districts, sites, or areas that are significant in the history, architecture, archaeology, engineering or culture of a place or time.

Historic Site – Any real property, man-made structure, natural object or configuration of any portion or group of the foregoing of historical, archaeological, cultural, scenic, or architectural significance.

HUC – Hydrologic Unit Code; identification number developed by the USGS to designate drainage basins including watersheds and subwatersheds.

HUC14 Subwatershed – A delineated subwatershed area identified by a 14-digit HUC, within which water drains to a particular receiving surface water body.

Immediate Family Member – A spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

Impervious Surface – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Impervious Surfaces, Cumulative – The total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Individual Subsurface Sewage Disposal System – A system regulated under N.J.A.C. 7:9A for disposal of sanitary sewage into the ground which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a disposal field, disposal bed, or disposal trench or trenches. The term “septic system” is equivalent in meaning.

Karst – A distinctive topography that indicates solution of underlying carbonate rocks (such as limestone and dolomite) by surface water or ground water over time, often producing surface depressions, sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams.

Light Detection and Ranging (LiDAR) – Technology that uses an active sensor, similar to radar that transmits laser pulses to a target and records the time it takes for the pulse to return to the sensor receiver. This technology is used for high-resolution topographic mapping.

Linear Development – Infrastructure, utilities and the associated right-of-ways therefor, including but not limited to such installations as railroads, roads, sewerage and water supply pipelines, stormwater management pipes and channels, natural gas and liquid fuel pipelines, electric, telephone and other transmission lines, and in all cases, the associated right-of-ways therefor.

Low Impact Development – An environmentally sensitive approach to land use planning that uses a variety of landscape and design techniques to manage development activities to mitigate potential adverse impacts on the natural environment.

Major Highlands Development – Except as otherwise provided pursuant to subsection a. of section 30 of the Highlands Act (“Exemptions”): (1) any non-residential development in the Preservation Area; (2)

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any residential development in the Preservation Area that requires an environmental land use or water permit from the NJDEP or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity undertaken or engaged in the Preservation Area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a state entity or local government unit in the Preservation Area that requires an environmental land use or water permit from the NJDEP or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. Major Highlands Development shall not include any agricultural or horticultural development or agricultural or horticultural use. Solar panels shall not be included in any calculation of impervious surface. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq., as amended.)

Major Potential Contaminant Sources (PCS) – Land uses and activities determined by the Highlands Council to pose a major risk of ground water contamination (see APPENDIX B).

Master Plan – For purposes of this Ordinance, all references to the “Township Master Plan,” “master plan,” or “Master Plan,” refer to the municipal master plan, as adopted by the Township Planning Board.

Master Plan, Highlands Regional (RMP) – For purposes of this Ordinance, all references to the Highlands Regional Master Plan (RMP), shall be by use of the words “Highlands Regional Master Plan,” “Highlands RMP,” “Regional Master Plan,” or “RMP.”

Minor Potential Contaminant Sources (PCS) – Land uses and activities determined by the Highlands Council to pose a minor risk of ground water contamination (see APPENDIX C).

Municipal Land Use Law (MLUL) – The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

NJDA – New Jersey Department of Agriculture

NJDA Agricultural Development in the Highlands Rules – The regulations established by the NJDA to implement requirements of the Highlands Act, titled and codified at N.J.A.C. 2:92.

NJDEP – New Jersey Department of Environmental Protection

NJDEP Preservation Area Rules – The regulations established by the NJDEP to implement requirements of the Highlands Act, titled “Highlands Water Protection and Planning Act Rules,” and codified at N.J.A.C. 7:38-1 et seq.

NJDOT – New Jersey Department of Transportation

NJPDES – New Jersey Pollutant Discharge Elimination System

NJPDES Permit – A permit issued by the NJDEP authorizing certain discharges to ground or surface waters of the State of New Jersey pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., as amended, and its implementing rules at N.J.A.C. 7:14A.

NJ Soil Erosion and Sediment Control Act Rules – Regulations adopted by the State Soil Conservation Committee at N.J.A.C. 2:90-1, incorporating requirements for Best Management Practices regarding temporary and permanent soil erosion control.

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Nonconforming Lot – Any lot having an area, dimension or location which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming Structure – Any structure having a size, dimension or location which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming Use – A use or activity which was lawful prior to the adoption, revision or amendment of a municipal zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Non-Public Well – Any water supply well used for potable purposes other than a public community or non-community water supply well.

Non-Structural Stormwater Management – Techniques and practices devised to manage stormwater runoff and reduce pollution levels, without extensive construction efforts. Non-structural management strategies often mimic the natural hydrology of a site and utilize site planning and design to accomplish stormwater control.

NRCS – Natural Resources Conservation Service of the United States Department of Agriculture

Operations and Contingency Plan – A management plan prepared in support of an existing or proposed Major or Minor Potential Contaminant Source (PCS), that: a) documents the specific PCS(s) existing or proposed for a particular site; b) describes the types and quantities of substances and/or wastes expected to be used, discharged or stored on the site; c) indicates the means by which spillage, leakage or discharge of such materials will be prevented; d) provides the means or methods to be used to contain or remedy any accidental spill, leak, discharge or migration of such materials from the site directly or indirectly into ground water, surface water bodies, or the land surfaces that provide recharge to the underlying aquifer; e) indicates the procedures to be undertaken to notify the appropriate administrative authorities, including but not limited to the NJDEP and the Board of Health, regarding any accidental spillage or discharge of such materials; and f) demonstrates that best management practices have been incorporated into the design and management of both the site and the particular PCS(s) it contains to ensure against such discharges.

Person – Any individual, public or private corporation, company, partnership, firm, association, owner or operator, political subdivision of this State, and any state, federal or interstate agency or an agent or employee thereof.

Planning Area – Lands within the Highlands Region that are not located in that portion designated by the Highlands Act as the “Preservation Area” (see metes and bounds description at N.J.S.A. 13:20-7b). For purposes of this Ordinance, this terminology shall also be used to refer to Planning Area lands located solely within the Township.

Potential Contaminant Source (PCS) – Activity or land use that may be a source of a contaminant that has the potential to move into ground water withdrawn from a well.

Preservation Area – Lands within the Highlands Region that are located in that portion designated by the Highlands Act as the “Preservation Area” (see metes and bounds description at N.J.S.A. 13:20-7b). For

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purposes of this Ordinance, this terminology shall also be used to refer to Preservation Area lands located solely within the Township.

Public Community Water System – A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year round residents.

Public Community Well – A well that provides water to a public water system serving at least 15 service connections used by year-round residents or regularly serving at least 25 year-round residents.

Public Non-Community Water System – A public water system that is not a public community water system and is either a “public non-transient non-community water system” or a “public transient non-community water system” as defined herein.

Public Non-Community Well – A well that is not a public community well and that provides water to a public water system regularly serving at least 25 individuals for at least 60 days in any given calendar year.

Public Non-Transient Non-Community Water System – A public water system that is not a public community water system and that regularly serves at least 25 of the same persons for more than six months in any given calendar year.

Public Transient Non-Community Water System – A public water system that is not a public community or a public non-transient non-community water system and that serves at least 25 transient individuals for at least 60 days in any given calendar year.

Public Water System – A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves at least 25 individuals daily for at least 60 days out of the year. Such term includes any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a “public community water system” or a “public non-community water system” as defined herein.

Rare Species – Wildlife species that are not endangered or threatened wildlife species but are considered by the NJDEP to be species of special concern as determined by a panel of experts, or that are ranked S1 (critically imperiled in New Jersey because of extreme rarity), S2 (imperiled in New Jersey because of rarity), S3 (rare in New Jersey), G1(critically imperiled globally), G2 (imperiled globally because of rarity) or G3 (globally very rare and local throughout its range or found locally in a restricted range) in the Natural Heritage Database, and Plant Species of Concern listed pursuant to N.J.A.C. 7:5C-3.1.

Reforestation – The restoration (replanting) of a forest that has been reduced by fire, cutting, or any other cause.

Residential Development – Development dedicated to the creation of new dwelling units or the improvement or expansion of existing dwelling units, whether by new construction or conversion of existing building areas or portions thereof, to dwelling use, including any type of residential structure whether a single-family home (including group home), duplex, townhouse, apartment or any other form of multi-family housing construction. For purposes of this ordinance, residential development shall include property improvements associated with and either, required in support of or customarily accessory to, the residential use, including but not limited to porches, patios, decks, driveways, garages,

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storage sheds, swimming pools, tennis courts, drywells, utility facilities, septic systems, yard grading and retaining walls.

Resource Management System Plan – A site-specific conservation system plan that: (1) prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural and horticultural productivity, and the control and prevention of non-point source pollution; and (2) establishes criteria for resources sustainability of soil, water, air, plants, and animals.

Reviewing Board – The municipal Planning Board or Zoning Board of Adjustment, as applicable, established pursuant to N.J.S.A. 40:55D-23 or N.J.S.A. 40:55D-69 respectively, or any committee formally designated and authorized to act on behalf of such Board pursuant to other provisions of the MLUL (e.g., Minor Subdivision Committee of a Planning Board).

Riparian Area – Areas adjacent to and hydrologically interconnected with Highlands Open Waters rivers and streams consisting of flood prone areas, wetlands, soils that are hydric, alluvial, or have a shallow depth to ground water, and including wildlife passage corridors within 300 feet of surface Highlands Open Waters features.

Riparian Area, Flood Prone Portion – Areas delineated by the Highlands Council based on NJDEP flood prone and FEMA Q3 flood area mapping (NJDEP 1996, FEMA 1996) including USGS documented (by prior flood events) and undocumented flood prone areas and Federal Emergency Management Agency (FEMA) 100-year floodplain.

Riparian Soils – Soils associated with Highlands Open Waters that are hydric, alluvial, or exhibit a shallow depth to seasonal high water table.

Riparian Area Wildlife Corridor – A 300-foot corridor on each mapped stream bank or from the stream centerline if no stream bank is mapped.

RMP Update – A factual update to the Highlands Regional Master Plan based upon receipt of new, corrected or updated factual information and verification by the Highlands Council.

SADC – State Agriculture Development Committee

SCD – Soil Conservation District, as established in accordance with the Soil Conservation Act, N.J.S.A. 4:24-1 et seq.

Scenic Resources – Sites and landscapes that are distinctive and remarkable for their geology, topography, history, culture, and aesthetics or can be representative of the defining character of a community. They may include prominent ridgelines, mountainsides or hillsides, panoramic vistas, community gateways and landmarks, river valleys, and agricultural landscapes.

Sedimentation – The process of deposition of a solid material from a state of suspension or solution in a fluid (usually air or water).

Septic System – A system regulated by N.J.A.C. 7:9A for disposal of sanitary sewage into the ground which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a disposal field, disposal bed, or disposal trench or trenches. The term “Individual Subsurface Sewage Disposal System” is equivalent in meaning.

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Sewer Service Area (SSA) – The land area identified in an Areawide Water Quality Management Plan from which generated wastewater is designated to flow to a domestic treatment works or industrial treatment works. A distinct sewer service area is established for each domestic treatment works and industrial treatment works.

Shoreline – The Ordinary High Water Mark, or point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristic.

Site Disturbance – The placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Slope (or “Grade”) – An area of land forming an incline; a measure used to describe the degree of inclination of an area of land; the difference in vertical elevation (“rise”) of a land area occurring over a specified horizontal distance (“run”). For example, a land area having a one (1)-foot vertical rise over a 10-foot horizontal run, has a slope of 10%. A 10-foot vertical rise over a 25-foot horizontal run indicates a slope of 40%.

Slope, Steep – Any slope having a grade of 15% or more, or if situated in a Riparian Area, of 10% or more.

Slopes, Constrained – All non-Riparian Area lands having a slope of 15% to less than 20% which are non-forested and exhibit one or more of the following characteristics: a) highly susceptible to erosion; b) shallow depth to bedrock; or c) a Soil Capability Class indicative of wet or stony soils.

Slopes, Limited Constrained – All non-Riparian Area lands having a slope of 15% to less than 20%, which are non-forested, are not highly susceptible to erosion, and do not have a shallow depth to bedrock or a Soil Capability Class indicative of wet or stony soils.

Slopes, Moderately Constrained – All forested non-Riparian Area lands having a slope of 15% to less than 20%.

Slopes, Severely Constrained – All lands having slopes of 20% or greater and all lands within Riparian Areas having slopes of 10% and greater.

Soil Capability Class – Soil class designated by the United States Department of Agriculture (USDA) “Soil Survey,” available from the Natural Resource Conservation Service and containing descriptions of soil series on a county-by-county basis (available online at www.soildatamart.nrcs.usda.gov).

Solar Panel – An elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq., as amended.)

Species of Special Concern – Wildlife species identified by the NJDEP that warrant special attention because of evidence of population decline or inherent vulnerability to environmental deterioration or habitat modification that would result in the species becoming threatened if conditions surrounding the species begin or continue to deteriorate. The term includes species for which there is little knowledge of current population status in the state.

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Stormwater Management Rules – NJDEP rules at N.J.A.C. 7:8 that set forth the required components of regional and municipal stormwater management plans, and establish the stormwater management design and performance standards for new (proposed) development.

Structure – A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

Subsidence Sinkholes – Sinkholes formed by the downward settlement of unconsolidated overburden into openings in underlying, soluble bedrock.

Surface Water – Any waters of the State of New Jersey which are not ground water.

Sustainable Agriculture – An integrated system of plant and animal production practices having a site-specific application that will over the long-term: (a) satisfy human food and fiber needs; (b) enhance environmental quality and the natural resource base upon which the agricultural economy depends; (c) make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles, and controls; (d) sustain the economic viability of farm operations; and (e) enhance the quality of life for farmers and society as a whole (1990 Farm Bill).

Technical Service Provider (TSP) – Professionals from outside of the United States Department of Agriculture that are certified by the NRCS to assist agricultural producers in applying conservation measures.

Threatened Species – An indigenous nongame wildlife species of New Jersey designated pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et. seq., and its implementing rules, N.J.A.C. 7:25-4.17, as most recently amended.

Time of Travel – The average time that a volume of water will take to travel through the zone of saturation from a given point to a pumping well.

Total Maximum Daily Load (TMDL) – The pollutant loading that a surface water body may assimilate without violating NJDEP Surface Water Quality Standards (N.J.A.C. 7:9B) and a determination of the extent to which pollutant loadings to a water body must be reduced to restore that water body to a water quality that complies with the Surface Water Quality Standards. A TMDL includes an allocation of allowable pollutant loads to specific point sources (Wasteload Allocations) and categories of non-point sources (Load Allocations), after subtraction of a Margin of Safety and, where appropriate, a Reserve Capacity (for future pollutant loads).

Viewshed – An area of land, water or other physical features visible from a fixed vantage point.

Wastewater Utility – A publicly, privately, or investor-owned utility that collects and may treat sanitary wastewater, as regulated by the NJDEP.

Water Availability, Conditional – The amount of water availability allowed in a deficit HUC14 subwatershed, subject to certain mitigation requirements, as determined by the Highlands Council.

Water Availability, Net – The value assigned by the Highlands Council to a HUC14 subwatershed resulting from subtracting consumptive and depletive surface and ground water uses from ground water availability.

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Water Conservation – Implementation of BMPs to ensure maximum water use efficiency and reduction in water use and losses; measures may include low impact development techniques, water conserving fixtures, water valves, beneficial re-use systems and capture of stormwater.

Water Dependent Uses – Any use or activity that cannot physically function without direct access to the body of water along which it is proposed. An activity that can function on a site not adjacent to the water is not considered water dependent regardless of the economic advantages that may be gained from a waterfront location.

Water Quality Management Plan (WQMP) – A plan prepared pursuant to sections 208 and 303 of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., (33 U.S.C. § 1288 et seq. and 1313 respectively) and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., including the Statewide WQMP, or Areawide or County WQMP as defined under N.J.A.C. 7:15.

Water Use and Conservation Management Plan – A planning document approved by the Highlands Council to ensure the sound use and management of water resources. Water Use and Conservation Management Plans document the current state of water availability and use in the subwatersheds of interest, set priorities for the use and protection of available water, and establish methods to reduce and, where feasible, eliminate net water availability deficits where they exist.

Wellhead – The well, borehole, and appurtenant equipment for a public community well, public non-community well, or non-public well within a cluster of non-public wells.

WHPA – Wellhead Protection Area

Zone of Saturation – A layer within or below the soil profile which is saturated with ground water either seasonally or throughout the year.

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ARTICLE 4. ESTABLISHMENT OF HIGHLANDS AREA DISTRICTS

§ 4.1 HIGHLANDS PRESERVATION AREA AND PLANNING AREA

The Highlands Act establishes the Preservation Area and Planning Area of the Highlands Region. It describes the varied attributes of each and sets forth the major land use planning goals that pertain to the lands located within each. The Act defines the geographic extent of the Highlands Region to include the aggregated land area making up its constituent municipalities (N.J.S.A. 13:20-7a). It provides a physical delineation of the Preservation Area by use of a specific metes and bounds description (N.J.S.A. 13:20-7b), designating all remaining lands within the Highlands Region as the Planning Area.

§ 4.1.1 Highlands Area

The Township Master Plan incorporates the Highlands Preservation Area and Planning Area, inclusive of the goals applicable to each, as an integral component of the planning and land use policies of the municipality. For purposes of this Ordinance, these Areas shall henceforth be known and designated as the Township Highlands Area.

§ 4.1.2 Preservation Area

The Preservation Area, to the full extent of its limits within the Township Highlands Area, is herewith adopted and established as an overlay to municipal zoning.

§ 4.1.3 Planning Area

The Planning Area, to the full extent of its limits within the Township Highlands Area, is herewith adopted and established as an overlay to municipal zoning.

§ 4.2 HIGHLANDS ZONES AND SUB-ZONES

The Highlands RMP establishes two primary zones (the Protection Zone and Existing Community Zone) and three sub-zones (Wildlife Management Sub-Zone, Existing Community Zone–Environmentally Constrained Sub-Zone and Lake Community Sub-Zone) within Rockaway Township, each with its own purpose, application and development criteria. Delineation of Highlands Zones finds basis in the underlying natural resources, the extent of existing development and supporting infrastructure, and the potential to support new development and redevelopment. Highlands Zones are intended to ensure that the density and intensity of future development and redevelopment do not exceed the capacity of the land, natural resources and existing infrastructure to support them. The Township Master Plan incorporates the Highlands zones and sub-zones as an integral component of the planning and land use policies of the municipality.

In keeping with the Land Use Plan of the Township Master Plan, the following Highlands Zones and Sub-Zones are herewith established as overlays to existing municipal zoning:

§ 4.2.1 Protection Zone

The Protection Zone contains the highest quality natural resource value lands of the Highlands Area. Lands in the Protection Zone are essential to maintaining water quality, water quantity and sensitive ecological resources and processes and have limited or no capacity to support human development without adversely affecting overall ecological function. Land acquisition is a high priority for lands in the Protection Zone and development activities will be extremely limited. Any development will be subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands and natural resources.

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§ 4.2.2 Wildlife Management Sub-Zone

The Wildlife Management Sub-Zone, a sub-zone of the Protection Zone, consists of areas managed by the United States Fish and Wildlife Service as part of the National Wildlife Refuge System, and lands within the Wildlife Management Area System administered by the NJDEP Division of Fish & Wildlife's Bureau of Land Management. These areas are part of a network of lands and waters for conservation, management, and where appropriate, restoration of fish, wildlife and plant resources and their habitats. Lands within the Wildlife Management Sub-Zone are intended for compatible wildlife-dependent recreational uses such as hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

§ 4.2.3 [Reserved]

§ 4.2.4 [Reserved]

§ 4.2.5 Existing Community Zone

The Existing Community Zone consists of areas of concentrated development representing existing communities. These areas tend to have limited environmental constraints due to previous development patterns, and may have existing infrastructure that can support additional development or redevelopment. Where served by adequate supporting infrastructure, lands within the Existing Community Zone are suited to higher densities and intensities of development than other Zones.

§ 4.2.6 Existing Community Zone – Environmentally Constrained Sub-Zone

The Existing Community Zone–Environmentally Constrained Sub-Zone consists of significant contiguous Critical Habitat, steep slopes and forested lands within the Existing Community Zone that should be protected from further fragmentation. They serve as regional habitat “stepping stones” to larger contiguous Critical Habitat and forested areas. As such, they are not appropriate for significant development, and are best served by land preservation and protection. Development is subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

§ 4.2.7 Lake Community Sub-Zone

The Lake Community Sub-Zone consists of that portion of the Existing Community Zone that lies within 1,000 feet of all lakes of 10 acres or more in surface area. The purpose for the sub-zone is to protect and enhance water quality, resource features, shoreline recreation, scenic quality, and community character. This sub-zone incorporates unique regulatory requirements to prevent degradation of water quality, harm to lake ecosystems, and watershed pollution, while promoting natural aesthetic values within the Existing Community Zone.

§ 4.3 HIGHLANDS RESOURCE AND SPECIAL PROTECTION AREAS

The Highlands RMP establishes Highlands Resource Areas and Special Protection Areas, each delineated based on the existence of one or more significant Highlands resources or critical or sensitive environmental characteristics or features. The Township Master Plan incorporates each of these areas to the extent of their physical limits within the Highlands Area, and the specific policies, goals and objectives relating to their protection as an integral component of the planning and land use policies of the municipality. In keeping with the Township Master Plan, the following Highlands Resource Areas and Special Protection Areas are herewith established as overlays to municipal zoning:

§ 4.3.1 Forest Resource Area

The Forest Resource Area contains high ecological value forest areas including forested areas having the least fragmentation which are vital to the maintenance of ecological processes. The Forest Resource Area includes forested areas characterized by one or more of the following forest integrity indicators: a contiguous forest

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patch of 500 acres or more; an area consisting of 250 contiguous acres or more of Core Forest; or areas accounting for 45% or more of mean total forest cover.

§ 4.3.2 Highlands Open Waters

Highlands Open Waters consist of all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but not including swimming pools. Highlands Open Waters include seeps, lakes, ponds, and vernal pools, all categories (including springs, streams, and wetlands) as described and defined in the Township Environmental Resource Inventory.

§ 4.3.3 Riparian Areas

Riparian Areas are areas adjacent to and hydrologically interconnected with Highlands Open Waters rivers and streams. They consist of flood prone areas, wetlands, soils that are hydric, alluvial, or have a shallow depth to ground water. Riparian Areas also include wildlife passage corridors within 300 feet of surface Highlands Open Waters features.

§ 4.3.4 Steep Slope Protection Area

The Steep Slope Protection Area is comprised of those portions of the Highlands Area encompassing a minimum of 5,000 square feet of contiguous area, which are characterized either by grades of 15% or greater, or, if in a Riparian Area, 10% or greater. The Steep Slope Protection Area includes the following sub-classifications:

- A. ***Severely Constrained Slopes.*** All lands having slopes of 20% or greater and lands within Riparian Areas having slopes of 10% and greater.
- B. ***Moderately Constrained Slopes.*** All forested non-Riparian Area lands having a slope of 15% to less than 20%.
- C. ***Constrained Slopes.*** All non-forested, non-Riparian Area lands having a slope of 15% to less than 20% and exhibiting one or more of the following characteristics: a) highly susceptible to erosion; b) shallow depth to bedrock; or c) a Soil Capability Class indicative of wet or stony soils.
- D. ***Limited Constrained Slopes.*** All non-forested, non-Riparian Area lands having a slope of 15% to less than 20%, which are not highly susceptible to erosion, and do not have a shallow depth to bedrock or a Soil Capability Class indicative of wet or stony soils.

§ 4.3.5 Critical Habitat

Critical Habitat is comprised of all land areas in the Highlands Area designated as Critical Wildlife Habitat, Significant Natural Areas, and Vernal Pools, including Vernal Pool Buffers. Each of these is established as an overlay to municipal zoning.

- A. ***Critical Wildlife Habitat.*** Within the Planning Area, Critical Wildlife Habitat consists of those areas within NJDEP's Landscape Project Version 3 (or more recent version as amended) that are Landscape Rank 3 through 5. In addition, it includes areas that are designated Landscape Rank 2 and have a Highlands Conservation Rank of Critically Significant or Significant. Within the Preservation Area, Critical Wildlife Habitat consists of those areas within Landscape Rank 2 through 5, including all Highlands Conservation Ranks.
- B. ***Significant Natural Areas.*** Significant Natural Areas consist of the 95 NJDEP Natural Heritage Priority Sites, including habitat for documented threatened and endangered plant species, and lands

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that include unique or regionally significant ecological communities and other significant natural sites and features.

- C. ***Vernal Pools.*** Areas designated as Vernal Pools consist of NJDEP-certified vernal pools plus a 1,000-foot wide protection buffer surrounding the perimeter of each such pool. Vernal Pools consist of confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels.

§ 4.3.6 Carbonate Rock Areas

Carbonate Rock Areas consist of those portions of the Highlands Area that are underlain by carbonate rock, such as limestone and dolomite. Inclusion of lands within a Carbonate Rock Area does not imply the presence of karst features area-wide, but is indicative of the potential for solution of underlying carbonate rock by surface or ground water, over time.

§ 4.3.7 Lake Management Area

The Lake Management Area is defined to include the drainage area of all Highlands Area lakes having a surface area of greater than ten acres. The Lake Management Area includes the following sub-classifications:

- A. ***Shoreland Protection Tier.*** The Shoreland Protection Tier consists of the lands surrounding a lake that lie within 300 feet of its shoreline, or between the shoreline and the nearest property line adjacent to and alongside of the lake, whichever is the lesser.
- B. ***Water Quality Management Tier.*** The Water Quality Management Tier consists of the lands surrounding and draining to a lake that lie within 1,000 feet of its shoreline. This tier includes the Shoreland Protection Tier.
- C. ***Scenic Resource Tier.*** The Scenic Resource Tier consists of the lands surrounding a lake that lie within 300 feet of its shoreline (the Shoreland Protection Tier) plus any lands within 1,000 feet of its shoreline that fall within the viewshed observable from the opposite shoreline. The limits of such viewsheds require mapped delineations based upon the topography of such lands, with the highest observable elevations, forming the viewshed perimeter.
- D. ***Lake Watershed Tier.*** The Lake Watershed Tier consists of the entirety of the land area draining to a lake, as determined through the evaluation of drainage areas using LiDAR topographic analysis or other topographic data where LiDAR data are not available.

§ 4.3.8 Prime Ground Water Recharge Areas

Prime Ground Water Recharge Areas consist of those lands having the highest ground water recharge rates within each HUC14 subwatershed (as indicated by analysis using the GSR-32 methodology of the New Jersey Geological Survey), and that cumulatively provide forty percent (40%) of the total recharge volume for the subwatershed.

§ 4.3.9 Wellhead Protection Areas

Wellhead Protection Areas consist of those areas surrounding a public water system well, from which ground water flows to the well and ground water contamination, if it occurs, may pose a significant threat to the quality of water withdrawn from the well. Wellhead Protection Areas are composed of three tiers reflecting the time required for ground water to flow into the well, as follows:

- A. ***Wellhead Protection Area Tier 1.*** That area of land within a Wellhead Protection Area (WHPA) from which the flow of ground water to the well has a Time of Travel of 2 years.

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- B. **Wellhead Protection Area Tier 2.** That area of land within a WHPA from which the flow of ground water to the well has a Time of Travel of 5 years.
- C. **Wellhead Protection Area Tier 3.** That area of land within a WHPA from the flow of ground water to the well has a Time of Travel of 12 years.

§ 4.3.10 Highlands Special Environmental Zone

The Highlands Special Environmental Zone consists of lands having the highest priority ranking for preservation based on the Highlands Council Resource Assessment methodology. This assessment considers five indicators for the protection of water resources and environmentally sensitive lands, including: Forest within the Forest Resource Area, Riparian Corridor Condition High, Highlands Open Water Protection Area, Critical Habitat, and the Water Quality Management Tier of Lake Management Areas (excluding those of the Lake Community Sub-Zone). The Special Environmental Zone is located within the Highlands Conservation Priority Area and is located solely within the Preservation Area.

§ 4.3.11 [Reserved]

§ 4.3.12 Highlands Historic, Cultural and Archaeological Resources

[Note: Adoption of Highlands Historic, Cultural and Archaeological Resources as an overlay to municipal zoning is encouraged but not required. To adopt, retain this subsection; otherwise delete in entirety along with related subsections following. Township will finalize prior to adoption.] Highlands Historic, Cultural and Archaeological Resources consist of those properties, sites and districts listed in the Highlands Historic, Cultural and Archaeological Resources Inventory. These include but are not limited to: all properties listed on the New Jersey or National Register of Historic Places; all properties which have been deemed eligible for listing on the New Jersey or National Register of Historic Places; and all properties for which a formal opinion of the State Historic Preservation Office (SHPO) has been issued.

§ 4.3.13 Highlands Scenic Resources

Highlands Scenic Resources consist of those properties, sites, and viewsheds listed in the Highlands Scenic Resources Inventory. These include but are not limited to national historic landmarks and publicly-owned federal, state and county parks, forests, and recreation areas.

§ 4.4 ADOPTION OF HIGHLANDS AREA DISTRICT MAPS

All Highlands Area Districts as set forth under § 4.1 through § 4.3, above, including Planning and Preservation Areas, Zones and Sub-Zones, Resource Areas and Special Protection Areas, are hereby established by the designation, location and boundaries as set forth for each respectively, in the following maps, each of which is hereby declared to be a part of this Highlands Area Land Use Ordinance:

§ 4.4.1 Township Highlands Area, Zones, and Sub-Zones

Map titled “Township of Rockaway Highlands Area, Highlands Zones and Sub-Zones,” dated August 24, 2011 depicting the municipality along with delineation of the Preservation Area, Planning Area, and Highlands Zones and Sub-Zones, as provided by the Highlands Council (Exhibit 1).

§ 4.4.2 Highlands Area Resource and Special Protection Areas

Series of Maps depicting the Resource and Special Protection Areas listed at § 4.3.1 through § 4.3.13 above, and also including related features and areas as discussed and defined in Article 6 of this Ordinance; dated August 24, 2011 (unless otherwise specifically noted), as provided by the Highlands Council.

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- A. ***“Forest Resource Area, Total Forest Area.”*** Map depicting that portion of the Township Highlands Area designated as Forest Resource Area (pursuant to § 4.3.1 above) and including Total Forest Area (as defined at § 6.1); map denoted Exhibit 2.
- B. ***“Highlands Open Waters, Lake Management Areas.”*** Map depicting Highlands Open Waters located wholly or partially within the Township Highlands Area (pursuant to § 4.3.2 above); and Lake Management Areas which include lakes having a surface area greater than ten acres and associated lake management tiers, including representative Scenic Resource Tier (i.e., non-delineated; 1,000-feet from estimated shoreline) (pursuant to § 4.3.7 above); map denoted Exhibit 3.
- C. ***“Riparian Area Areas.”*** Map depicting Riparian Areas (pursuant to § 4.3.3 above) located within the Township Highlands Area; map denoted Exhibit 4.
- D. ***“Steep Slope Protection Area.”*** Map depicting those portions of the Township Highlands Area having 5,000 square feet or more of contiguous surface area in steep slopes (pursuant to § 4.3.4 above); map denoted Exhibit 5.
- E. ***“Critical Wildlife Habitat, Significant Natural Areas, Vernal Pools.”*** Map depicting those portions of the Township Highlands Area designated as Critical Wildlife Habitat (pursuant to § 4.3.5 A above); those portions of the Township Highlands Area designated as Significant Natural Areas (pursuant to § 4.3.5 B above); and Vernal Pool locations (by center-point only, non-delineated), including representative Vernal Pool Buffers (1,000-feet from center point), located within the Township Highlands Area (pursuant to § 4.3.5.C above); map denoted Exhibit 6.
- F. ***“Carbonate Rock Area, Prime Ground Water Recharge Area, Wellhead Protection Areas.”*** Map depicting those portions of the Township Highlands Area designated as Carbonate Rock Areas (pursuant to § 4.3.6 above); those portions of the Township Highlands Area designated as Prime Ground Water Recharge Areas (pursuant to § 4.3.8 above); and the location of public water system wells within the Township Highlands Area and the associated wellhead protection tiers surrounding them (pursuant to § 4.3.9 above); map denoted Exhibit 7.
- G. ***“Highlands Special Environmental Zone.”*** Map depicting those lands of the Township Highlands Area designated by the Highlands Council as Highlands Special Environmental Zone (pursuant to § 4.3.10 above); map denoted Exhibit 8.
- H. ***“Highlands Historic, Cultural and Archaeological Resources, Highlands Scenic Resources.”*** [Note. Adoption of Highlands Historic, Cultural and Archaeological Resources mapping is required only if the municipality retains subsection § 4.3.12 above. Adoption of Highlands Scenic Resources mapping is required. Township will finalize prior to adoption.] Map depicting properties located within the Township Highlands Area that are listed in the [if applicable: Highlands Historic, Cultural, and Archaeological Resources Inventory (pursuant to § 4.3.12 above); and properties located within the Township Highlands Area that are listed in the] Highlands Scenic Resources Inventory (pursuant to § 4.3.13 above); map denoted Exhibit 9.

§ 4.5 INTERPRETATION OF DISTRICT MAPS BOUNDARY LINES

All Highlands Area District maps, as set forth at § 4.4 above, have been developed by the Highlands Council using Geographic Information System (GIS) digital data. The provisions herein shall apply to the interpretation and use of Highlands Area District maps and the boundary lines they specify.

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§ 4.5.1 Municipal Boundary Lines

The Highlands Act relies upon municipal boundary lines to designate the limits of the Highlands Region. The Highlands Council dataset establishing municipal boundary lines was created by dissolving parcel level polygons (GIS) for each of the 88 municipalities within New Jersey Highlands. Parcels from the following counties have a general accuracy of plus or minus five (5) feet: Bergen, Passaic, Somerset, Sussex, and Warren. Data from Hunterdon and Morris were provided by the counties and may have a different accuracy level. This dataset is for representative purposes only. Where the specific delineation of any municipal boundary line comes into question, municipal information such as metes and bounds surveys shall be relied upon for any final determination.

§ 4.5.2 Township Highlands Area

The Highlands Area, Highlands Zones and Sub-Zones map (§ 4.4.1, above) provides the Highlands Preservation Area Boundary as described by the Highlands Act (N.J.S.A. 13:20-7a). To digitize the survey description, the Highlands Council used the Highlands Parcel Base, the NJDEP Hydrographic Layer for 2002, and the NJDOT Local Road Files from 2005 as references. In accordance with the Highlands Act, any natural geographical feature, including a river, stream or brook, used in the boundary description of the Preservation Area is considered to lie totally within the Preservation Area, while any road, railroad or railroad right of way is considered to lie totally outside of the Preservation Area. The use of property block and lot designations include or exclude property from the Preservation Area, as described. Where a survey gore exists between a property boundary depicted upon a municipal tax map and the limits of a surveyed property noted in the Preservation Area description, the surveyed property boundary description is considered to constitute the Preservation Area boundary.

Additionally, the Preservation Area does not include land located within the boundaries of any regional center or town center designated by the State Planning Commission pursuant to the “State Planning Act,” P.L.1985, c.398 (C.52:18A-196 et al.) as of the date of enactment of the Highlands Act, except to the extent necessary as set forth in the boundary description of the Preservation Area to reflect appropriate and nearest practicable, on-the-ground, and easily identified reference points.

§ 4.5.3 Highlands Zones, Sub-Zones, Resource Areas, Special Protection Areas

The boundaries delineated for all Highlands Zones, Sub-Zones, Resource Areas, and Special Protection Areas were developed by the Highlands Council based on the factors noted in the description of each, above. Further discussion is provided in the Township Environmental Resource Inventory and in the Highlands Element of the Township Master Plan.

§ 4.5.4 Mapping Conflicts

In the event of a conflict concerning the location of any Highlands District boundary line, the delineations provided by the Highlands Council as adopted herein, shall be determinative. Modifications may be requested of the Highlands Council through submittal of an RMP Update, Map Adjustment or Highlands Center Designation in such manner as required by the Highlands Council, or as specifically provided otherwise in this Ordinance. In the event of any conflict concerning the Preservation Area boundary line, the metes and bounds description provided by the Highlands Act shall govern, with any discrepancy or dispute residing under the shared jurisdiction of the Highlands Council and the NJDEP. In the event of a conflict concerning the delineation of any parcel plotted by the Highlands Council using GIS software, a current property survey shall be determinative.

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ARTICLE 5. HIGHLANDS AREA ZONE DISTRICT REGULATIONS

§ 5.1 APPLICABILITY

The provisions of this Article modify the regulations applicable to the underlying municipal Zoning Districts, with specific regard to permitted uses, conditionally permitted uses, prohibited uses, and densities and intensities of development.

§ 5.2 USE REGULATIONS

All principal and accessory uses permitted or conditionally permitted by the underlying municipal Zoning Ordinance shall remain in effect as provided therein, except to the extent that such uses may be modified or eliminated by the provisions of this section. Any and all principal and accessory uses prohibited by the underlying Zoning Ordinance shall remain prohibited as provided therein, unless specifically designated as a permitted use by the provisions of this section. The lists of permitted, conditionally permitted and prohibited uses of the underlying Zoning Ordinance are herewith amended as necessary to provide for the use allowances and use restrictions that follow.

§ 5.2.1 Permitted Uses

Any use permitted by the underlying zoning that is cited at § 5.2.2 or § 5.2.3 below, shall be amended in accordance with the provisions set forth therein.

§ 5.2.2 Conditional Uses

Any use conditionally permitted by the underlying zoning that is cited at § 5.2.1 above or § 5.2.3 below, shall be amended in accordance with the provisions set forth therein.

§ 5.2.3 Prohibited Uses

A. ***Carbonate Rock Area Prime Ground Water Recharge Area, Wellhead Protection Area.*** The following principal or accessory uses and structures related or devoted to such uses, where otherwise permitted by the underlying municipal Zoning Ordinance, are expressly prohibited from the Prime Ground Water Recharge Area, Wellhead Protection Area Tiers 1 and 2, and from any portion of the Carbonate Rock Area determined to contain karst features or from any lands identified as discharging surface water into any portion of a designated Carbonate Rock Area determined to contain karst features:

1. Landfills;
2. Facilities for the permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
3. Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials; and
4. Industrial treatment facility lagoons.

B. ***Wellhead Protection Area, Tier 1.*** Any principal or accessory use, or structure related or devoted to such use, which is designated by the Highlands Council as a Major or Minor Potential Contaminant Source (PCS) (see APPENDIX B and APPENDIX C), where otherwise permitted by the municipal ordinance, is expressly prohibited from that portion of any Tier 1 Wellhead Protection Area lying within 200 feet of the wellhead.

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§ 5.3 DENSITY AND INTENSITY OF DEVELOPMENT

The provisions of this section are intended to ensure that development in the Highlands Area occurs at densities and intensities that are appropriate to the water supply and wastewater treatment options available to support it. These provisions shall serve as a check on the various density/intensity provisions of the underlying Zoning Ordinance, which shall remain in effect to the extent not specifically in conflict with these provisions. The density/intensity allowances of the underlying Zoning Ordinance provisions reflect the intents and purposes set forth for the municipal zoning districts as established by the Township Master Plan and the effectuating Zoning Ordinances. They define and support the intended character and patterns of development for each district, setting forth the relationship between built form in a district and the lot or lots on which it is situated. The provisions of this section relate solely to ensuring that such development: a) does not exceed the capacity of the land, resources and infrastructure available to support it; and b) is designed to minimize land disturbance and protect natural resources.

§ 5.3.1 Use of Terms

For purposes of these provisions, density of development standards refer to requirements of the underlying Zoning Ordinance that regulate the permitted number of dwelling units per acre of land, whether specifically defined as density standards or set forth as minimum lot size requirements for application to specific zoning districts. Intensity of development standards refer to those requirements used to define the relationship between the permitted extent, form and location of development of a lot, to the size, shape and configuration of the lot on which it is situated (e.g., floor area ratio, building coverage, building height, yard setbacks, number of stories).

§ 5.3.2 Base Mapping

Base maps regarding water availability and wastewater treatment capacity appear in the technical information provided in the Conservation and Utility Services Plans of the Township Master Plan Highland Element. These maps are combined into one for purposes of this Ordinance, denoted as Exhibit 10 and herewith adopted and incorporated, as titled: “Net Water Availability by HUC14 Subwatershed, Highlands Domestic Sewerage Facilities, Public Community Water Systems.”

§ 5.3.3 Development Subject to Water Availability

Any proposed increase in the demand for water supply averaging 6,000 gallons per day or more, deriving from Highlands Area ground water sources or from surface water sources that are not associated with a NJDEP-approved safe yield, shall be accompanied by a finding of sufficient water capacity, which finding shall be issued by the Highlands Council. This provision shall apply to all development as defined at § 3.2, expressly including changes in use and modifications to existing uses. Specific requirements pertinent to new development reliant upon ground water supplies may be found at § 6.7. For purposes of determining net increases in water demand associated with modifications to existing uses pursuant to these requirements, the following unit/square footage figures shall apply as 400-gallon-per-day equivalents:

- A. Residential Uses (All Types) – 1 dwelling unit
- B. Office and Commercial Uses – 2,400 square feet of floor area
- C. Industrial (Including Warehousing/Distribution) Uses – 18,182 square feet of floor area
(Excluding Process Wastewater Flow)

§ 5.3.4 Development Served by Septic Systems

- A. **Preservation Area.** Development proposals involving new or increased demand for septic system capacity in the Preservation Area shall be regulated in accordance with NJDEP Preservation Area Rules (N.J.A.C. 7:38). Applicable only to Major Highlands Development, these provisions override any

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density, intensity, bulk, or other standard of the underlying Zoning Ordinance that would permit a septic system density in excess of that provided therein. The applicable NJDEP septic system density requirements appear below. For septic systems proposed in service to a cluster development, the provisions of Article 8 shall also apply. Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system.

1. *Septic System Density Requirements.* A new individual subsurface disposal system or aggregate of equivalent disposal units where the sanitary wastewater design flow is 2,000 gallons per day or less shall be permitted only in accordance with the density limitations, at 3.a. through 3.d., below. Forest under this subsection shall be identified and calculated as provided at APPENDIX A (from N.J.A.C. 7:38-3). For the purposes of this subsection, “equivalent disposal unit” means: for residential development, one system serving one single-family home sized in accordance with the Standards for Individual Subsurface Sewage Disposal Systems, Volume of Sanitary Sewage, at N.J.A.C. 7:9A-7.4; or for non-residential development or residential development comprising structures other than single-family homes, 500 gallons of wastewater per day generated for the development type, as determined in accordance with N.J.A.C. 7:9A-7.4 (provided at APPENDIX F).
 - a) On a lot that contains all forest, there shall be no more than one individual subsurface disposal system or equivalent disposal unit for each 88 acres of the lot;
 - b) On a lot that does not contain forest, there shall be no more than one individual subsurface disposal system or equivalent disposal unit for each 25 acres of the lot;
 - c) For the purposes of this subsection, the acreage of a lot shall be the total area of the lot(s) on which the proposed development is located as described by deed(s) or subdivision plat(s) on file with the municipal or county clerk.
 - d) For a lot containing both forest and non-forest areas, the total number of allowable individual subsurface disposal systems or equivalent disposal units permitted on the lot shall be determined by calculating the number of acres of the lot that are forest (as determined in accordance with APPENDIX A, from N.J.A.C. 7:38-3.9) and dividing that number by 88; calculating the remaining number of acres of the lot that are not forest and dividing that number by 25; and then summing the results. If the sum results in a fraction, the number shall be rounded down to the nearest whole number in order to determine the number of permitted individual subsurface disposal systems or equivalent disposal units.
 - e) For purposes of this section, noncontiguous lots in existence as of August 10, 2004 may be aggregated such that the number of individual subsurface disposal systems or equivalent disposal units that would be permitted under this section on one or more of the aggregated lots is transferred to one or more of the aggregated lots provided:
 - (i) The proposed development on the lot or lots to receive the transferred individual subsurface disposal systems or equivalent disposal units complies with all federal, state and local laws;
 - (ii) The proposed development on the lot or lots to receive the transferred individual subsurface disposal systems or equivalent disposal units does not require a waiver of any requirement of N.J.A.C. 7:38 and is constructed in accordance with the Highlands Act and N.J.A.C. 7:38, inclusive of 3% maximum impervious surface limitations;

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- (iii) The lots to be aggregated under this paragraph are all located in the Preservation Area and within the same HUC14; and
 - (iv) The lot or lots from which the individual subsurface disposal systems or equivalent disposal units are to be transferred are subject to a conservation restriction against future disturbance provided in accordance with N.J.A.C. 7:38-6.3.
2. *Additional Septic System Requirements.* In addition to the requirements above, individual subsurface sewage disposal systems or equivalent disposal units shall satisfy the Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C. 7:9A) without extraordinary measures, including replacement of disposal field soil with permeable material or mounding of a disposal field to achieve the required depth to ground water or confining layer.
- B. **Planning Area.** Development proposals involving new or increased demand for septic system capacity in the Planning Area shall be regulated in accordance with this subsection. These provisions shall override any density, intensity, bulk, or other standard of the underlying Zoning Ordinance that would otherwise permit a septic system density or use of septic system yield in excess of that as provided herein. These provisions shall apply equally in the case of any agricultural or horticultural development application proposing three or more residential dwelling units (including accessory dwelling units) served by individual on-site septic system(s). Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system, however.
1. *Septic System Density Allowances.* Septic system density (gross acres per septic system) shall not exceed the following allowances, for each Highlands Zone and Sub-Zone. [*Note: These allowances derive from the "Minimum Average Lot Size by Highlands Zone" table, provided previously under Article 5 of the model Highlands Area Land Use Ordinance. Any municipality preferring to retain the full nitrate dilution methodology may continue to do so as an alternative to this simplified version, or as an alternate strategy included by reference to an Appendix, which applicants may utilize if found advantageous.*].
- a) Existing Community Zone (and Sub-Zones) – 9 acres/septic system
 - b) Protection Zone (and Sub-Zones) – 26 acres/septic system
- These allowances indicate the minimum acreage required per septic system, where that system is designed for a one-family household generating a maximum flow of 300 gallons of wastewater per day. The resulting acreage shall be applied as the minimum average acreage necessary to support every 300 gallons of daily wastewater flow generated by any proposed use where the unit/square footage figures below shall be applied as 300 gallon-per-day equivalents.
2. *Equivalent Yields.* The following unit/square footage figures shall be applied as 300 gallon-per-day equivalents:
- a) Residential Uses (All Types, except as provided below) – 1 dwelling unit
 - b) Deed-Restricted Senior Citizen Residential Units, or Mobile Home Parks with dwelling units less than 500 square feet in size – 1.5 dwelling units
 - c) Office and Commercial Uses – 2,400 square feet of floor area
 - d) Industrial (Including Warehousing/Distribution) Uses – 18,182 square feet of floor area (Excluding Process Wastewater Flow)

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- e) Specific Non-Residential Uses by Facility Type – In lieu of c., or d., above, 300 gallon-per-day equivalents may be computed based on the average sewage volumes provided in Appendix E, from N.J.A.C. 7:9A-7.4.
- 3. *Floor Area.* For the purposes of this subsection, floor area shall comprise the area of each floor of a building lying within the inside perimeter of its exterior walls excluding vent shafts, courts, and unfinished areas such as basements or attics having ceiling heights less than that required for habitable space under the building code.
- 4. *Additional Septic System Requirements.* In addition to the requirements above, individual subsurface sewage disposal systems or equivalent disposal units shall satisfy all standards for design, installation, and maintenance as set forth in any applicable Township Health Ordinance and any related and applicable regulatory requirements of other agencies having jurisdiction.

§ 5.3.5 Development Served by Existing or Extended Utility Infrastructure

Where lots proposed for development in the Highlands Area are served by existing public water and wastewater utility infrastructure having sufficient available capacity, the density and intensity of new development shall be consistent with all requirements of the underlying municipal Zoning Ordinance. For purposes of this provision, “existing” water and wastewater utility infrastructure refers to that, either: a) lawfully constructed and operational, or b) approved for construction in an Existing Community Zone (excluding the Constrained Sub-Zone), including the Lake Community Sub-Zone) in the Planning Area, under an Areawide Water Quality Management Plan.

§ 5.3.6 New or Extended Utility Infrastructure

- A. *Preservation Area.* New, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are prohibited unless approved through issuance of either a Highlands Applicability Determination indicating that a project is exempt from the Highlands Act, or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.
- B. *Planning Area – Protection Zone and Environmentally-Constrained Sub-Zones.* New, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are permitted only where approved by the Highlands Council.
- C. *Planning Area – Existing Community Zone (excluding Environmentally-Constrained Sub-Zone) and Lake Community Sub-Zone.* Expansion or creation of public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are permitted: to serve lands which are appropriate for designated TDR Receiving Zones (if applicable), infill development, or redevelopment; to address public health and safety; or to serve new areas for development; all of which address all other requirements of this Ordinance. (See applicable provisions at § 7.7 - § 7.8, below.)

§ 5.3.7 Development Served by New or Extended Utilities

Where new development proposed in the Highlands Area will not rely upon installation of septic systems, but will be served by new or extended public water systems, wastewater collection and treatment systems, or community on-site treatment facilities, such development shall be in compliance with any conditions of approval required by the Highlands Council or the NJDEP, as applicable, in connection with amendment of the Areawide Water Quality Management Plan.

ARTICLE 6. HIGHLANDS AREA RESOURCE REGULATIONS

§ 6.1 FOREST RESOURCES

§ 6.1.1 Findings

Forests are a defining visual and functional feature of the Highlands Area. Forests provide habitat and sustenance for a diverse array of plants and animals and are essential to maintaining biodiversity. Forests protect against soil erosion, provide filtration for ground water recharge, and assist in protecting stream water quality. Forests retain moisture and sequester atmospheric carbon, thus helping to stabilize weather patterns and mitigate global warming. Forested areas of the Highlands Area offer important recreational resources, contribute to its unique scenic quality, and when managed sustainably, can provide a long-term source of wood and wood products.

§ 6.1.2 Total Forest Area

All portions of the Highlands Area identified by the Highlands Council as containing forest (as defined at § 3.2) appear as Total Forest Area in the map titled “Forest Resource Area, Total Forest Area” (Exhibit 2), adopted and incorporated as a component of this Ordinance pursuant to § 4.4, above.. The Total Forest Area includes forested portions of lands designated as Forest Resource Area, as provided at § 4.3.1, above.

§ 6.1.3 Clear-Cutting Prohibited

Clear-cutting is prohibited in any forested portion of the Highlands Area, whether the affected lands are delineated as Total Forest Area or Forest Resource Area, or consist of lands containing upland forest, as determined under the procedures provided at APPENDIX A.

§ 6.1.4 Standards

Any forest disturbance (as defined at § 3.2) other than that authorized pursuant to an HPAA issued by the NJDEP, shall be permitted only upon a finding by the reviewing board or other applicable municipal authority that the following requirements have been satisfactorily addressed:

- A. Demonstration that the proposed disturbance can neither be avoided nor reduced in extent, while adequate roviding for a proposed use that otherwise addresses the requirements of this Ordinance;
- B. Incorporation of Low Impact Development techniques (see § 7.2) appropriate to the activity or development project proposed;
- C. For any proposed disturbance of one half (1/2) acre or more, other than that associated with the maintenance of a legally pre-existing use or structure (expressly excluding the expansion of any such use or structure), submission, approval and implementation of a Forest Mitigation Plan designed to minimize the extent of such disturbance, protect forest areas adjacent or proximate to the disturbance area, and mitigate for loss of trees or other forest vegetation removed during the course of such disturbance; and
- D. Notwithstanding the preceding provisions, in the case of any proposed disturbance that by definition constitutes deforestation, submission, approval and implementation of a Forest Mitigation Plan designed to minimize the extent of deforestation, protect forest areas to remain, and restore or mitigate for forest area loss.

§ 6.1.5 Forest Impact Reports

Forest Impact Reports shall contain at minimum, the items listed in this subsection.

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A. *All Forest Impact Reports*

1. A map of upland forest area located on or within 500 feet of the subject property, as determined in accordance with Appendix A. A map indicating any on-site areas designated as Forest Resource Area or Total Forest (Exhibit 2). Where access is not available to adjacent properties, the municipal Environmental Resource Inventory and any updated Highlands Council GIS data delineating the Forest Resource Area and Total Forest may be relied upon for off-site forest identification.
2. A description of the nature, density and intensity of the proposed use or activity.
3. A plan indicating the extent of the forest disturbance area, identifying the number, location, species and, for trees of greater than six (6) inches in caliper (measured at 4.5 feet above grade level), the caliper of any trees proposed for removal.
4. A description of the site alternatives analysis undertaken to, in this order: a) avoid forest disturbance; b) minimize forest disturbance; and c) ensure that any forest disturbance that cannot be avoided results in the least impact.
5. A description of the low impact development practices to be used to minimize the disturbance area and its impact; design details to be indicated in development plans, if applicable.
6. If the applicant proposes site-specific forest information that differs from mapped forest resources in Exhibit 2, including information based on the method in APPENDIX A, it must be provided in a format and with sufficient information that the findings may be submitted for verification by the Highlands Council as an RMP Update.
7. An analysis of the effects (direct and indirect) of the proposed use or activity upon forests, including forest areas adjacent and proximate to the disturbance area.

B. *Deforestation Impact Reports.* In addition to the items required above for all Forest Impact Reports, any application proposing disturbance that by definition (see § 3.2), constitutes deforestation, shall include:

1. A description of the area surrounding the subject property within a 0.5 mile radius.
2. A map of all forest resources, as described in the Environmental Resources Inventory, within a 0.5 mile radius of the property, including any areas designated as Forest Resource Area or Total Forest (Exhibit 2).
3. A field survey and description of the local ecological community type(s) on the site and a description of the surrounding, macro-scale ecological community type(s) of which the property is part.
4. An inventory of forest community composition and stand structure. The inventory shall include a description of vegetation species richness, vegetation species composition, stand density and basal area, connectivity with surround forested lands, and the survey method.
5. An impact analysis documenting and describing any increase in forest fragmentation, creation of forest edge, disruption of forest area on steep slopes or riparian areas, or disruption of core forest areas that will occur as a result of the proposed use or activity.

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§ 6.1.6 **Forest Mitigation Plans**

All Forest Mitigation Plans must be prepared by a State of New Jersey Approved Forester or other qualified professional. A Forest Mitigation Plan must include each of the components listed herein.

- A. ***Mitigation Priority Area Map.*** Priority Areas are forested locations within the site having the highest ecological value to be targeted for conservation, restoration, or mitigation, including such areas as:
 1. Highlands Open Waters and Buffers
 2. Riparian Areas, including Floodplains and Floodprone Areas
 3. Critical Habitat
 4. Steep Slopes and Ridgelines
 5. Core Forests and Contiguous Forest Patches
- B. ***Protection Plan.*** A plan providing the proposed methodology appropriate to, and by which the applicable mitigation priority areas will be protected throughout the period of forest disturbance and thereafter.
- C. ***Forest Protection Plan.*** A plan incorporating pre-construction and construction best management practices to ensure the well-being of forest areas adjacent or proximate to the disturbance area. Such plans shall include prescribed limits of disturbance to be mapped, field marked, and provided with protective fencing prior to the start of any construction activity. Plans shall indicate installation of tree protection fencing along the drip line of trees to be protected, with instructions barring encroachment by machinery or heavy equipment of any kind, and requiring regular inspection and maintenance of fencing throughout the construction period.
- D. ***Mitigation Description.*** A description of the proposed forest restoration, tree planting plan or other mitigation initiative proposed to provide equivalent or enhanced forest ecosystem benefit in consideration of the extent and type of disturbance or deforestation that would result if the use or activity is approved.
- E. ***Planting Plan.*** A detailed plan indicating the specific plantings proposed for restoration, reforestation or mitigation, including size, species, quantity, location, separation distances, planting details, deer and pest management protections, and maintenance plans.
- F. ***Maintenance Agreement.*** A minimum 3-year maintenance agreement that outlines care-taking responsibilities of the applicant once the proposed planting has been completed. The maintenance agreement must include monitoring of newly planted stands, provide for protection devices in working order for 3 years, and ensure at least a 75% survival rate after 3 years.

§ 6.2 **HIGHLANDS OPEN WATERS & RIPARIAN RESOURCES**

§ 6.2.1 **Findings**

Highlands Open Waters (Exhibit 3) include all springs, streams (including intermittent streams), wetlands and bodies of surface water, whether natural or artificial (excluding swimming pools), located wholly or partially within the boundaries of the Highlands Area. Highlands Open Waters contribute to the water resources of the Highlands Region, and ultimately to the water supply of millions of New Jersey citizens. They are essential

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to the ecologic function of the plant and animal communities of the Highlands Area that depend upon them for survival. Highlands Open Waters are also an important physical feature of the Township, contributing to its character, aesthetics, history and development, and to its recreational opportunities.

Protection of Highlands Open Waters is vital not only to the municipality, but to the Highlands Region and the state of New Jersey. The provision or preservation/enhancement of buffer areas adjacent to Highlands Open Waters is an integral component to ensuring such protection. Key functional values that buffers provide or contribute to, include but are not limited to: habitat for flora and fauna, stormwater and flood water retention and filtration, water quality protection, temperature moderation, aquatic ecosystem integrity and channel integrity. Highlands Riparian Areas (Exhibit 4) are lands associated with and bordering on Highlands Open Waters, often extending beyond Highlands Open Water buffers. These lands are likewise essential to providing critical hydrologic, ecologic and pollutant attenuation functions for Highlands Open Waters. Riparian areas moderate fluctuations in water temperature, help maintain ground water recharge and stream base flow, stabilize stream banks, and provide flood storage areas. During high flow or overland runoff events, riparian areas reduce erosion and sediment loads to surface water and remove excess nutrients and contaminants from flood water. Riparian areas also provide habitat for a variety of animal species and support terrestrial and aquatic food webs through deposition of woody debris.

It is in the interest of the local community, the Highlands Region, and the state of New Jersey that the Highlands Open Waters of the Township Highlands Area, including associated buffers and Riparian Areas, receive the highest level of protection possible. The map of Highlands Riparian Areas (Exhibit 4) includes all Highlands Open Waters and associated flood prone areas, riparian soils and wildlife corridors.

§ 6.2.2 Highlands Open Waters Protection Buffer

All Highlands Open Waters shall include a minimum 300-foot wide protection buffer, as measured from the edge of the discernible bank of the Highlands Open Waters feature, or from the centerline where no discernible bank exists. These buffers are included in the map of Highlands Open Waters at Exhibit 3 with respect to streams, rivers, ponds, lakes and reservoirs. With respect to wetlands and other Highlands Open Waters features not mapped in Exhibit 3 (e.g., seeps, springs), each shall include a 300-foot wide protection buffer measured from: for the Planning Area, a delineated wetlands line described in a Letter of Interpretation (LOI), or from a field-delineated boundary line for other features; or for the Preservation Area, the delineated limits of the feature, as indicated by a Highlands Resource Area Determination issued by the NJDEP.

§ 6.2.3 Highlands Open Waters Buffer Standards

Highlands Open Waters buffers shall be maintained in their undisturbed or pre-existing condition, unless a disturbance is approved in accordance with the provisions of this section.

- A. ***Pre-existing Structures or Improvements.*** Any lawfully pre-existing structure or improvement located within a Highlands Open Waters protection buffer area as of the effective date of this Ordinance may remain and be maintained or rehabilitated, provided that the existing area of disturbance attributed to or associated with such structure or improvement shall not be increased.
- B. ***Agricultural & Horticultural Land Uses.*** For purposes of this section, existing agricultural and horticultural uses, whether or not under active management or operation, shall not be included in any assessment of “previously disturbed” buffer areas with regard to proposals for non-agricultural development.
- C. ***Approvals Subject to Outside Agency Approvals.*** Approval of any application involving the disturbance of a Highlands Open Waters buffer pursuant to this section shall not be construed to relieve the applicant from the applicable rules, regulations or legal requirements of any other agency

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having jurisdiction over such buffers, including but not limited to: the NJDEP (e.g., Freshwater Wetland Rules, N.J.A.C. 7:7, Stormwater Management Rules, N.J.A.C. 7:8, Flood Hazard Area Rules, N.J.A.C. 7:13, NJPDES Rules, N.J.A.C. 7:14A); a Soil Conservation District pursuant to its authority under New Jersey Soil Erosion and Sediment Control Act Rules, N.J.A.C. 2:90; or any county or other regional entity having authority pursuant to a Regional Stormwater Plan adopted by NJDEP under N.J.A.C. 7:8 and N.J.A.C. 7:15.

- D. ***Municipal Stormwater Management Requirements.*** Where the provisions of this section are in conflict with the provisions of an adopted municipal stormwater management ordinance (Ordinance #06-15, effective May 2, 2006), the more restrictive of the two shall apply.
- E. ***Stream Corridor Protection/Restoration Plan.*** Where the provisions of this section are in conflict with the provisions of an adopted Stream Corridor Protection/Restoration Plan, the provisions of the adopted Plan shall override.
- F. ***Protection Buffer Expansion.*** The provisions of this section shall not be construed to preclude the imposition of a wider protection buffer requirement where site-specific analysis and evaluation by a qualified professional indicates that such expansion is essential to the protection of Highlands Open Waters, associated Riparian Areas, or the habitat of water or wetlands-dependent species (particularly in the case of rare, threatened or endangered species) located therein.
- G. ***Preservation Area Standards.*** Any disturbance of a Highlands Open Water buffer proposed in connection with a Major Highlands Development shall be authorized and regulated only by the NJDEP in accordance with NJDEP Preservation Area Rules (N.J.A.C. 7:38) and all other applicable requirements.
- H. ***Planning Area Standards.*** Disturbance is prohibited within all Highlands Open Waters and adjacent 300-foot buffers except for linear development, which shall be permitted only provided that there is no feasible alternative for the linear development outside the Highlands Open Waters or Highlands Open Water buffer. The provisions of this subsection shall apply until and unless overridden by ordinance provisions adopted pursuant to a Highlands Council-approved Stream Corridor Protection and Mitigation Plan.
1. To address the “no feasible alternative for linear development” standard, the applicant shall demonstrate that there is no other location, design or configuration for the proposed linear development that would reduce or eliminate the disturbance. For proposed linear development that would provide access to an otherwise developable lot, the applicant shall, in addition, show that:
 - a) The proposed linear development is the only point of access for roadways or utilities to an otherwise developable lot; and
 - b) Shared driveways are used to the maximum extent possible to access multiple lots.
 2. An alternative shall not be excluded from consideration under this subsection merely because it includes or requires an area not owned by the applicant that could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed linear development.
 3. The reviewing municipal authority shall not approve any application pursuant to this subsection if, after review of the information provided to support an approval, it finds that there is a reasonable alternative to the proposed linear development.

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§ 6.2.4 Riparian Area Standards

Disturbance of any portion of a Highlands Riparian Area is prohibited except for linear development, which shall be permitted only provided that there is no feasible alternative for the linear development outside of the Riparian Area. All provisions of § 6.2.3 H above shall apply with regard to the “no feasible alternative” standard. These provisions shall apply until and unless Riparian Area disturbances are otherwise authorized under implementing ordinance provisions adopted pursuant to a Highlands Council-approved Stream Corridor Protection and Mitigation Plan. *[Provisions providing allowances for disturbance of previously disturbed Highlands Open Waters buffer areas and Riparian Areas have been removed due to pending issuance of Highlands Council guidance materials for development of Stream Corridor Protection and Mitigation Plans. Such Plans will be specific to the municipality’s Highlands Open Waters buffer areas and will be effectuated by implementing ordinances that set forth specific standards and requirements.]*

§ 6.3 STEEP SLOPES

§ 6.3.1 Findings

Disturbance of steep slopes can trigger soil erosion and sedimentation, resulting in the loss of topsoil. Steep slope disturbance can contribute to siltation of wetlands, lakes, ponds and streams, which damages and degrades wetland and aquatic habitats. Steep slope disturbance can also result in alteration of drainage patterns, which when severe, can result in land slumping and landslides. Protection of steep slope areas is essential to the safety and stability of the human and non-human environment. Avoiding disturbance of steep slopes protects surface water quality, plant and wildlife habitat, and habitat quality. It also protects ridgelines, hillsides, and mountainous features that provide variation in the landscape, contribute to scenic viewsheds, offer unique recreational opportunities, and in many instances, define the character of an area or region.

The severity and extent of steep slopes, in conjunction with applicable soil characteristics and type and extent of land cover, all affect the potential for damages from the disturbance of steep slopes. The provisions of this section are intended to protect the citizens, buildings and structures, and the natural environment and living ecosystems of the community from harm due to disturbance of steep slopes.

§ 6.3.2 Applicability

The provisions of this section shall apply to the Steep Slope Protection Area (Exhibit 5) and to any other portion of the Highlands Area determined to consist of 5,000 square feet or more of contiguous steep slope(s) (as defined at § 3.2). For purposes of making such determinations, slopes shall be calculated for every two-foot contour interval over the full extent of the existing slope features, regardless of the location of property or other jurisdictional boundary lines.

§ 6.3.3 Steep Slope Standards

- A. ***Severely and Moderately Constrained Slopes.*** Disturbance of Severely Constrained and Moderately Constrained Slopes is prohibited, with the exception of that required in connection with a linear development. Such linear development, however, shall be permitted only in the event that there is no feasible alternative for such development outside of the Severely Constrained or Moderately Constrained Slopes.
 - 1. To address the “no feasible alternative for linear development” standard, the applicant shall demonstrate that there is no other location, design or configuration for the proposed linear development that would reduce or eliminate the disturbance of Severely Constrained or Moderately Constrained Slopes. For proposed linear development that would provide access to an otherwise developable lot, the applicant shall in addition, show that:

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- a) The proposed linear development is the only point of access for roadways or utilities to an otherwise developable lot; and
 - b) Shared driveways are used to the maximum extent possible to access multiple lots.
2. An alternative shall not be excluded from consideration under this subsection merely because it includes or requires an area not owned by the applicant that could reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed linear development.
 3. The reviewing municipal authority shall not approve any application pursuant to this subsection if, after review of the information submitted to support an approval, it finds that there is a reasonable alternative to the proposed linear development.
- B. ***Constrained or Limited Constrained Slopes.*** Disturbance shall be permitted only upon a finding by the reviewing board or other applicable municipal authority that the application includes or satisfactorily addresses each of the requirements following:
1. Demonstration that the proposed steep slope disturbance can neither be avoided nor reduced in extent, while adequately providing for the proposed use.
 2. Incorporation of Low Impact Development techniques (pursuant to § 7.2) appropriate to both the proposed activity and the steep slope environment, designed to reduce the extent of disturbance areas, stabilize areas that are disturbed, provide for stormwater management, and protect adjacent areas during site construction.
 3. Development layout shall be designed to:
 - a) Minimize the need for landform grading and retaining structures;
 - b) Incorporate a cluster development format, where feasible, to minimize the extent of development on steep slopes; and
 - c) Disturb steep slopes (where such disturbance cannot be avoided) having the minimum potential for slope instability.
 4. Site design shall:
 - a) Incorporate stabilization techniques that emphasize bioengineering;
 - b) Ensure minimized soil loss during and after construction through steep slope-appropriate soil erosion and sediment control techniques;
 - c) Prevent direct discharge of stormwater into Highlands Open Waters features;
 - d) Provide for control of stormwater velocity and volume such that no net increase in run-off rates occurs between pre- and post-conditions; and
 - e) Provide for maximum protection of existing trees, woodlands and surrounding natural vegetated areas.

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§ 6.4 CRITICAL HABITAT

§ 6.4.1 Findings

Habitat protection is critical to maintaining biodiversity and providing for the needs of rare, threatened and endangered plant and animal species. Biodiversity is the variety of plant species, animal species and all other organisms found in a particular environment, and is a critical indicator of ecological integrity. This Ordinance establishes three categories of Critical Habitat in the Highlands Area, as set forth at § 4.3.5, above. Critical Wildlife Habitat includes lands containing habitat for rare, threatened and endangered wildlife species. Significant Natural Areas are those Natural Heritage Program (NHP) Priority Sites within the Highlands Region that are regionally significant due to the presence of either rare or endangered plant species or of unusual or exemplary natural ecological communities. Vernal pools are unique ecosystems that: provide critical breeding habitat for a variety of amphibian and invertebrate species; contribute to local biodiversity by supporting plants, animals and invertebrates that would otherwise not occur in the landscape; and contribute significant amounts of food to adjacent habitats.

Protection of Critical Habitat is essential to the well-being of a wide variety of plants and animals making up the unique ecosystems of the Highlands Area. Such protection is vital to the survival of numerous rare, threatened and endangered species. Protection of Critical Habitat is in the interest of the Township and the Highlands Region, as a whole, not only for its contributions to ecosystem stability and biodiversity, but for its role in the health and stability of the human environment, and its contributions to aesthetic values.

§ 6.4.2 Habitat Conservation and Management Plan

Upon Township adoption of a Habitat Conservation and Management Plan, which, inclusive of any accompanying ordinances, rules or regulations, shall be approved by the Highlands Council, all applications proposing disturbance of a Critical Habitat area shall be filed, reviewed and considered in accordance with the provisions and criteria provided therein.

§ 6.5 CARBONATE ROCK

§ 6.5.1 Findings

The Carbonate Rock Area identifies portions of the Highlands Area underlain by carbonate bedrock or known to contain karst topography. Solution (by water) of carbonate rocks such as limestone and dolomite by surface water or ground water can cause surface depressions and development of irregular, sub-surface rock topography known as karst. These conditions make such areas unstable and susceptible to subsidence and surface collapse. Karst conditions can lead to formation of sinkholes, sinking streams, enlarged bedrock fractures, caves and underground streams. Sinkholes function as funnels, directing surface water runoff into karst aquifers with little or no attenuation of transported contaminants. Stormwater basins, septic system leach fields, sewers, agricultural runoff, lawn runoff, underground pipelines, and soil disturbance all can contribute contaminants directly to ground water through karst features. Soils in sinkhole bottoms may be thin or non-existent. In addition to potential for ground water contamination, karst features present a threat to public safety. Sinkholes and other karst formations can undermine buildings and structures, including infrastructure facilities, such as roads, natural gas lines, water supply and sewer lines, septic systems and stormwater basins.

The provisions of this section are intended to protect the citizens, buildings and structures, and the natural environment, particularly the ground water resources of the Highlands Area from the potential for harm or physical damage associated with land development in areas identified as containing karst features..

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§ 6.5.2 **Applicability**

The provisions of this section shall apply to all proposed development in the Carbonate Rock Area (Exhibit 7), including that in both the Preservation Area and the Planning Area.

§ 6.5.3 **Geotechnical Investigation Required**

Any Application for Development within the limits of the Carbonate Rock Area shall be preceded by a Geotechnical Investigation, as provided in this subsection, unless certification is provided by a qualified engineering/geotechnical/geological professional indicating that the area in question is not underlain by karst topography. No such development application shall be deemed complete or considered for review by the applicable land use board or other designated municipal authority until such time as the Geotechnical Investigation program described herein has been satisfactorily completed, as certified by the individual(s) designated to review and make such findings on behalf of the municipality (see C., below).

- A. **Purpose.** The purpose for the Geotechnical Investigation is to locate karst features that may be affected by the development proposal, to reveal the potential threats to public health, safety or welfare, or ground water quality that may result, and to determine the most appropriate ways to address these issues in the design and implementation of the project proposal.
- B. **Professional Required.** The Geotechnical Investigation must be conducted by a qualified professional, such as geologist, soils or geotechnical engineer, or other licensed professional engineer having experience in karst area investigations and associated development.
- C. **Municipal Review.** Review and oversight of Geotechnical Investigations shall fall under the purview of the Municipal Engineer. For purposes of this subsection, the “Municipal Engineer” shall refer to the qualified professional engineer or geological expert designated by the municipality to provide review and recommendations concerning matters of a geotechnical nature.
- D. **Program.** The investigation shall occur in two phases, wherein the results of the first shall determine the need for and extent of requirements pertinent to the second.
 1. *Phase I Investigation.*
 - a) The investigation shall commence with completion of a Phase I Geological Investigation which shall identify the geologic nature of the materials underlying the site. This assessment shall be based on review of existing available information, such as prior investigation reports on properties proximate to the subject parcel(s), aerial photography, as well as on-site field investigation.
 - b) Phase I findings shall be provided in a summary report including: a description of the site geology; ground water conditions such as depth to water table and direction of flow; an evaluation of the potential impact of the project on ground water quality; and identification of any karst features observed. In addition, the report shall include the geological professional’s recommendations as to whether, in light of the proposed development plan, a Phase II Geological Investigation should be prepared and submitted, and whether any portion of the requirements of the Phase II Investigation should be waived.
 - c) The applicant’s geological professional and the Municipal Engineer shall review the applicant’s Phase I findings in the field.
 - d) The Municipal Engineer shall determine whether a Phase II Investigation shall be required, based on the data submitted and the recommendation of the applicant’s geological

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professional. The Municipal Engineer may grant a waiver from parts of the Phase II geotechnical evaluation or from part or all of the reporting requirements if in his/her professional opinion, such aspects are not relevant or necessary in formulating the proposed development plan for the site or property in question.

- e) In the event that a Phase II Investigation is not required, the Municipal Engineer shall provide written certification that the applicant has satisfactorily completed the requirements of the Geotechnical Investigation. Such certification shall include any conditions pertinent to the issuance of such certification that the Municipal Engineer may deem necessary or appropriate to ensure the geotechnical sufficiency of the proposed development plan. All materials developed in the course of the Phase I Investigation, inclusive of the Municipal Engineer's evaluation report(s) and recommendations, shall be provided to the municipal board or authority having jurisdiction over the development application.

2. *Phase II Investigation.*

- a) The purpose of the Phase II Investigation is to delineate and define karst features noted or suspected in the Phase I Geological Investigation, to evaluate the effects of those features on the proposed development, and to propose methods of protection and mitigation if needed.
- b) A Phase II Investigation Plan shall include a narrative describing the types of features to be investigated, their locations, the types of direct/indirect methods to be used and the reasons for their use. Indirect methods include the use of aerial photography, satellite imagery and geophysical procedures, such as ground penetrating radar, electrical conductivity, electrical resistivity, magnetic field, very low frequency measurement, gravity field recording and seismic velocity measurements. Direct methods shall include test pits, test probes, test borings or other appropriate methods. A plan indicating the areas of investigation, proposed locations of testing and types of testing shall accompany the Phase II Investigation Plan.
- c) After the Phase II Investigation Plan has been approved by the Municipal Engineer, formal notification shall be issued to the applicant authorizing the commencement of the testing procedures. The development site shall be subject to inspection by the Municipal Engineer or designated municipal inspectors at any time. All testing data and results shall be made available to municipal officials and inspectors upon request. Any samples taken shall be properly preserved and shall be available for examination by the Municipal Engineer until final action is taken by the approval authority on the application.
- d) At the completion of the Phase II Investigation, a formal Geotechnical Evaluation Report shall be submitted which shall include a geologic interpretation of the observed subsurface conditions, including soil and rock type, geologic unit, jointing, faulting, voids, fracturing, grain size and sinkhole formation. In addition:
 - (i) The Report shall provide all information gathered in the course of the testing protocol, including, as applicable: logs of all borings, test pits, and probes including evidence of cavities; loss of drilling fluid circulation during drilling; voids encountered and similar cavities; type of drilling or excavation technique employed; drawings of monitoring or observation wells as installed; time and dates of explorations and tests; reports of chemical analyses of on-site surface and ground water; names of individuals conducting tests if other than the applicant's designated professional; analytical methods used on soils, water samples, and rock samples; a 1" = 100' scale topographic map of the site (at a contour interval of two feet) locating all test pits, borings, wells, seismic or electromagnetic

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conductivity or other geophysical surveys; and analysis of the ground water including any potentiometric maps constructed from site data or aquifer tests with rate and direction of flow.

- (ii) The Report shall include an evaluation of the geotechnical findings in relation to the proposed development, and recommendations for the planning, engineering design and construction techniques to be utilized in accomplishing the project. All design recommendations shall minimize, to the greatest extent practical, impacts upon water quality and structural hazards associated with carbonate rock formations. The engineering solutions proposed to minimize environmental and structural impacts must be clearly detailed.
- e) The Municipal Engineer shall consider the data, formal reports, maps, drawings and related submission materials and determine whether the proposed design satisfactorily provides:
 - (i) Sufficient design, construction and operational information to ensure that the proposed development of the tract will not adversely affect the health, safety and welfare of the community;
 - (ii) Specific details demonstrating that the proposed method of development of the tract will minimize any adverse effects on the quality of surface or subsurface water, and will not alter the character of surface and/or subsurface water flow in a manner detrimental to known on-site or off-site conditions;
 - (iii) Specific details ensuring that design concepts and construction and operational procedures intended to protect surface and subsurface waters will be properly implemented; and
 - (iv) Specific details on inspection procedures to be followed during construction and after project completion.
- f) The Municipal Engineer shall, within 45 days of submission of the Phase II Geotechnical Evaluation Report, provide the applicant with a written response, evaluating the adequacy of the Investigation, the sufficiency of information to make the necessary findings, and a review and recommendations, if any, concerning the geotechnical aspects of the proposed development plan and associated construction and mitigation techniques.
- g) Upon a finding of sufficiency, the Municipal Engineer shall certify that the applicant has satisfactorily completed the Geotechnical Investigation, and all materials developed in the course of the Investigation process, inclusive of the Municipal Engineer's evaluation report(s) and recommendations, shall be provided to the municipal board or authority having jurisdiction over the development application.

§ 6.5.4 Carbonate Rock Drainage Area

Applicants seeking approval of development activities in subwatersheds that drain directly to the Carbonate Rock Area shall conduct a Phase I Geological Investigation. The Phase I investigation and Municipal Engineer's review shall ensure that any proposed development activity having potential to alter the types, volumes, or rates of runoff entering the Carbonate Rock Area, shall be designed to prevent the formation or enlargement of sinkholes, the introduction of contaminated surface water into ground water aquifers via sinkholes or cavities, or the lowering of the water table.

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§ 6.5.5 Conditions of Development Application Approval

Where a Geotechnical Investigation is required in connection with a development application that will subsequently be filed with the Planning Board or Zoning Board of Adjustment, the Municipal Engineer shall provide recommendations to the Board concerning the application during the course of its review and decision making. For all other applications requiring a Geotechnical Investigation, the recommendations and requirements of the Municipal Engineer shall have final force and authority and shall be incorporated into any approval issued by the reviewing authority.

- A. In no case shall an Application for Development, in either the Carbonate Rock Area or in a subwatershed that drains directly to the Carbonate Rock Area, be approved unless the applicant has demonstrated to the satisfaction of the reviewing board or other municipal authority (in consultation with the Municipal Engineer) that all potential hazards to public health and safety, structures and ground water are fully addressed and mitigated, with the maximum emphasis given to nonstructural measures, such as avoidance of modifications to the karst features, use of dry swales to divert run-off away from karst features, minimization of site disturbance, and removal or minimization of impervious surface.
- B. The following conditions shall accompany the approval of any Application for Development in the Carbonate Rock Area:
 - 1. The location of all sinkholes, disappearing streams or karst features shown on documents submitted under the Phase I and/or Phase II Geologic Investigations shall be drawn on all preliminary and final plats, site plans and parcel plans. These shall also note any site remediation techniques to be utilized to stabilize any solution channels or subsidence karst features.
 - 2. In the event a previously unidentified carbonate rock feature posing a geologic hazard is discovered during construction, the applicant shall:
 - a) Report the occurrence of the hazard to the Municipal Engineer within twenty-four (24) hours of discovery;
 - b) Halt construction activities which would affect the geologic hazard;
 - c) Prepare a report on the geologic hazard which analyzes the impact of the hazard and details a remediation plan for review and approval by the Municipal Engineer;
 - d) After obtaining approval from the Municipal Engineer, perform necessary remediation of the hazard to prevent or minimize damage to buildings, structures, utilities, driveways, parking areas, roadways and other site improvements, and to minimize pollution of the ground water;
 - e) Repair any damage to improvements and restore ground cover and landscaping;
 - f) In those cases where the hazard cannot be repaired without adversely affecting the site plan or subdivision, the applicant shall file an amended application for a site plan or subdivision approval in compliance with the provisions of the municipal ordinances.

§ 6.5.6 Potential Contaminant Sources

Where any use or structure classified as a Major Potential Contaminant Source (PCS) (as listed at APPENDIX B) is proposed to be located or expanded within a Carbonate Rock Area determined to contain karst features, or within any area discharging surface water into a Carbonate Rock Area containing karst

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features, the standards of approval provided at subsection § 6.9.3 below, shall apply in addition to the preceding requirements.

§ 6.6 LAKE MANAGEMENT AREA

§ 6.6.1 Findings

The Lake Management Area (Exhibit 3) contains all lakes located within the Highlands Area that have a surface area greater than ten (10) acres and the areas that drain to such lakes, including the three management tiers established at § 4.3.7. Highlands Area lakes contribute to the character and natural beauty of the Township, comprising a unique feature that is important to both the community and the surrounding region. Highlands Area lakes provide important recreational opportunities, support aquatic ecosystems, and moderate local atmospheric temperatures. Lakes represent an important interconnection in the wider system of rivers, streams and underground springs and aquifers that support life and contribute to community water supplies. Lakes can be harmed by pollutant sources in the watershed area draining to them. Polluted lakes can, in turn, damage downstream streams and rivers. Overdeveloped, damaged and poorly managed shore land areas can degrade water quality, harm lake ecosystems, diminish natural aesthetic values, and cause an overall loss of property values for lake communities. It is the intent of the provisions of this section to ensure that Highlands Area lakes receive the highest level of protection while at the same time providing for recreational access and opportunity, and development and redevelopment activities that are compatible with and appropriate to lake environments.

§ 6.6.2 Shoreland Protection Tier

The Shoreland Protection Tier encompasses the lands surrounding a Lake Management Area lake that lie within 300 feet of its shoreline. As such, these lands coincide with and are defined as Highlands Open Waters buffers pursuant to § 6.2, above. All provisions applicable to Highlands Open Waters buffers as provided therein, shall apply fully to the Shoreland Protection Tier of any lake in the Lake Management Area.

§ 6.6.3 Water Quality Management Tier

Any application proposing a disturbance within the Water Quality Management Tier shall be authorized only provided the reviewing board or other applicable municipal authority finds that the proposal protects lake water quality, by implementation of the requirements of this subsection. The Water Quality Management Tier consists of all lands draining into a Highlands lake that lie within 1,000 feet of its shoreline, subsuming the whole of the Shoreland Protection Tier. As such, these provisions shall not be construed to waive or obviate the requirements of either the preceding section § 6.6.2, or of § 6.2.3 above concerning Highlands Open Waters buffers.

A. ***Water Quality Protection Requirements.*** To prevent or minimize continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the Shoreland Protection Tier, the following measures shall be incorporated into all development proposals:

1. All disturbed parcels shall be provided with landscape or garden elements which retain stormwater, minimizing the potential for increases in the volume, time of concentration, or concentrated flow of runoff from the property. Such elements shall be designed to ensure to the maximum extent feasible, that during larger storms, water is released through overland sheet flow across a vegetated, naturally landscaped area.
2. All new development shall direct runoff from roofs, driveways and patios into landscape or garden elements which retain and filter stormwater, or to infiltration basins, trenches or other such appropriate stormwater management devices.

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3. Stormwater management plans shall be designed to direct run-off away from the shoreline and to avoid stormwater discharges directly to the lake to the maximum extent feasible.
 4. Stormwater shall be directed to a stormwater treatment train that cleans and reduces the rate of runoff to the maximum extent possible. Stormwater treatment trains shall maximize the use of swales with natural vegetation, infiltration mechanisms or constructed wetlands, and discharge through a constructed wetland or other channel that maximizes aeration and cleaning of water to the maximum extent feasible.
 5. The discharge of stormwater shall be through sheet flow, where feasible, which may require the construction of an outlet that disperses the water over a substantial distance at a constant elevation so that water sheet flows over the top.
- B. ***Approvals Subject to Outside Agency Approvals.*** Nothing herein shall be construed to relieve the applicant from the applicable rules, regulations and design requirements of any other agency having jurisdiction, including but not limited to the NJDEP (e.g., Freshwater Wetland Rules, N.J.A.C. 7:7, Stormwater Management Rules, N.J.A.C. 7:8, Flood Hazard Area Rules, N.J.A.C. 7:13, NJPDES Rules, N.J.A.C. 7:14A), a Soil Conservation District acting pursuant to Soil Erosion & Sediment Control Act Rules (N.J.A.C. 2:90), or any county or other regional entity having authority pursuant to an adopted Regional Stormwater Plan.

§ 6.6.4 Scenic Resources Tier

The Scenic Resources Tier includes lands surrounding Highlands lakes that lie within 300 feet of the shoreline (the Shoreland Protection Tier) plus lands within 1,000 feet of the shoreline that fall within the viewshed observable from the opposite shoreline. The provisions of this section are applicable to any development permitted in the Scenic Resources Tier. These requirements apply in addition to all requirements applicable to the Shoreland Protection Tier and Water Quality Management Tier.

- A. ***Scenic Resources Tier Mapping.*** For purposes of this section, applicants may establish and indicate in submission materials that all lands falling within 1,000 feet of the shoreline of a Highlands lake (coincident with the Water Quality Management Tier) constitute the designated Scenic Resources Tier viewshed. In the alternative, the actual limits of the affected viewshed area must be delineated and mapped for submission by a licensed Land Surveyor, Professional Engineer, Landscape Architect, or other qualified professional. Such delineations shall be based upon the topography of the lands surrounding the Highlands lake, with the highest observable elevations from the opposing shoreline forming the viewshed perimeter. For purposes of this Ordinance, observable elevations shall be those projected by use of topographic maps, regardless of any intervening building, structure, tree or other natural vegetation, along sight lines drawn radially from relevant vantage points along the opposing shoreline; such vantage points being sufficient in number and location to yield the full extent of the potential view. The viewshed perimeter shall in no location be less than the 300-foot depth of the Shoreland Protection Tier.
- B. ***Protection Standards.*** For all lakes with public access (i.e., with shorelines that are not entirely privately-held and managed through a lake association), and for privately-held and managed lakes to the extent not contrary to statutory law or previously approved lake community development plans, the applicant must demonstrate that the protection of visual and scenic resources in the Scenic Resource Tier is achieved through implementation of the following requirements:
1. The application must clearly illustrate and assess the extent to which the proposed development will be visible from the opposite shore of the lake. If the applicant demonstrates that the proposed development will be completely obscured from view by virtue of existing topographic features (specifically excluding buildings, structures, trees or other vegetation) intervening between the

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opposite shoreline and the development site, the remaining provisions of this subsection shall not apply.

2. Buildings shall be screened from view by trees and other native plant material to the maximum extent practicable and compatible with the existing character of the lake community, to minimize the visual intrusion on views from the opposing shorelines.
3. The massing of structures shall be designed and oriented to minimize lot disturbance, including cut and fill work, and to avoid blockage of views to the maximum extent possible.
4. The exteriors of all new or redeveloped buildings shall be designed and constructed with materials that minimize visual intrusion on the lake community character.
5. The clearing of trees shall be limited to the minimum extent needed to develop the site.
6. Any exterior lighting shall utilize full cut-off fixtures with light directed downward and away from the shoreline to the extent feasible.

C. ***Highlands Scenic Resources.*** In the event that an Application for Development within the Scenic Resources Tier involves a lot or lots that either contain, or lie adjacent to a property that contains a Highlands Scenic Resource as illustrated in Exhibit 9 and listed in the Highlands Element of the Master Plan, the provisions of § 6.12 below, shall apply.

§ 6.7 WATER CONSERVATION & DEFICIT MITIGATION

§ 6.7.1 Findings

The water resources of the Highlands Area are critical to supporting the life of the community. Ground water supplies represent the primary source of potable water in the Highlands Region and provide base flow to the Region's streams. The importance of ensuring the high quality and sustainable use of Highlands ground water supplies cannot be overstated. The availability of clean water for human use is critical to the life and economic vitality of the Highlands Area. The availability of water for ecological purposes is critical to sustaining the aquatic ecosystems of streams, ponds and lakes as well as the riparian flora and fauna that depend upon them. When water withdrawals exceed the rate of recharge, ground water supplies diminish, making access more difficult, reducing reliability, and ultimately leading to loss of the potable water source. Overuse of ground water reduces stream base flows, impairs ecological function and integrity, and threatens the long-term reliability of potable water supplies that the community depends upon. The provisions of this section are intended to protect ground water supplies from depletion resulting from unsustainable use. Where ground water supplies are already depleted, these provisions require measures to enhance and restore this vital resource.

§ 6.7.2 Applicability

The provisions of subsection § 6.7.3 below, shall apply to all development within the Highlands Area. The remaining provisions of this section shall apply to any development application proposing a new or increased use of potable or nonpotable water averaging 6,000 gallons per day or more, derived from: a) any ground water source in a Highlands Area HUC14 subwatershed, whether through a public community or non-community water supply system well, a non-public well, or an individual private well; or b) any surface water source in a Highlands Area HUC14 subwatershed that is not associated with a safe yield determined by the NJDEP through a water allocation permit. Specifically excluded from these provisions (§ 6.7.4 through § 6.7.7), are modifications or improvements to existing uses and structures that do not result in an increase in water demand by an average of 6,000 gallons per day or more.

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§ 6.7.3 Water Conservation Requirements

All development proposals shall incorporate as applicable, the following water conservation measures to promote sound resource use, reduce supply deficits, and reduce the need for additional utility infrastructure:

- A. Meet all applicable building code requirements for the use of water conservation fixtures and appliances in new or rehabilitated structures;
- B. Provide automatic controls based on rain sensors (or soil moisture) for all new and replacement lawn irrigation systems, as required by the electrical subcode at N.J.A.C. 5:23-3.16;
- C. Design all non-potable irrigation water uses to ensure that only the necessary amounts of water are used to achieve optimum plant growth, to the maximum extent practicable;
- D. Provide for internal recycling or beneficial reuse of reclaimed water in new commercial development projects, to the maximum extent practicable;
- E. Rely on stormwater for irrigation purposes to the maximum extent practicable, including but not limited to methods recommended by the U.S. Green Building Council through its Leadership in Energy and Environmental Design (LEED) program;
- F. Reduce water losses to the maximum extent practicable, in the rehabilitation of on-site water supply utility infrastructure, through such means as application of American Water Works Association/International Water Association water loss analysis methods (AWWA Manual M-36 or most recent version).

§ 6.7.4 Net Water Availability

Net Water Availability has been calculated by the Highlands Council for each HUC14 subwatershed located within or partially within the Highlands Area (Exhibit 10). Expressed in million gallons per day (MGD), the values assigned to each HUC14 subwatershed derive from subtracting consumptive and depletive surface and ground water uses for a baseline year, from total ground water availability. Where Net Water Availability figures are negative numbers, the subwatershed is identified as a Current Deficit Area, meaning existing uses exceed sustainable supplies. The map of Net Water Availability by HUC14 Subwatershed provided at Exhibit 10 is herewith adopted and incorporated as a component of this Ordinance.

§ 6.7.5 Conditional Water Availability

For subwatersheds designated as Current Deficit Areas, the Highlands Council has assigned a limited amount of Conditional Water Availability, the use of which is conditioned upon satisfying certain mitigation requirements. Jurisdiction over the use of Conditional Water Availability lies solely with the Highlands Council and shall apply in the case of Current Deficit Areas until such time as a Water Use and Conservation Management Plan for such subwatersheds has been adopted and put into effect.

§ 6.7.6 Water Use and Conservation Management Plan

Where a Highlands Council-approved Water Use and Conservation Management Plan has been established for a municipality, HUC14 subwatershed, or group of HUC14 subwatersheds, any development application involving the use of water derived from such subwatershed(s) shall be regulated fully in accordance with the requirements of such Plan. Adherence to the provisions of an adopted Water Use and Conservation Management Plan shall constitute satisfactory compliance with all of the provisions of this section, including those pertaining to Net Water Availability and Conditional Water Availability.

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§ 6.7.7 Absence of Water Use and Conservation Management Plan

In the absence of a Highlands Council-approved Water Use and Conservation Management Plan for a municipality, HUC14 subwatershed, or group of HUC14 subwatersheds, any development application involving the use of water derived from such subwatershed(s) shall be subject to requirements of this subsection.

- A. **Net Water Availability.** The provisions of this subsection shall apply to any development application proposing the use of Net Water Availability. These requirements shall apply regardless of whether such water is supplied from an on-site well or through a water supply utility.
1. *Highlands Council Findings Required.* No application shall be deemed complete or considered for review by the applicable Board until or unless the Highlands Council has determined that the proposed consumptive or depletive water use will not exceed the remaining Net Water Availability for the source HUC14 subwatershed(s). Such finding shall be provided by formal notification from the Executive Director of the Highlands Council, indicating by reference to specified application submittals (as required by the Highlands Council) that the Highlands Council has reviewed the specific development proposal at issue, and authorizes the increased use of potable or non-potable water therein specified.
 2. *Findings Determinative.* Any application revised from that reviewed by the Highlands Council pursuant to A.1, above, shall in no case be approved by the reviewing Board unless the proposed use of Net Water Availability remains equal to or less than that authorized by the Highlands Council through its formal findings. Nothing herein shall be construed to preclude the applicant from seeking a revised Highlands Council determination as to Net Water Availability, however.
- B. **Conditional Water Availability.** The provisions of this subsection shall apply to any development application proposing the use of Conditional Water Availability. These requirements shall apply regardless of whether such water is supplied from an on-site well or through a water supply utility.
1. *Highlands Council Findings Required.* No application shall be deemed complete or considered for review by the applicable Board until or unless a finding has been issued by the Highlands Council indicating that: a) the proposed consumptive or depletive water use will not exceed the remaining Conditional Water Availability for the source HUC14 subwatershed(s); b) that the applicant has correctly determined the associated mitigation requirement; c) that the proposed development plan will incorporate or otherwise provide for acceptable methods of deficit mitigation; and d) that the mitigation measures proposed by the applicant can be reasonably anticipated to meet the required level of mitigation. Such findings shall be provided by formal notification from the Executive Director of the Highlands Council, indicating by reference to specified application submittals (as required by the Highlands Council) that the Highlands Council has reviewed the relevant components of the development proposal and authorizes it to proceed to the municipal review authority.
 2. *Findings Determinative.* Any application revised from that reviewed by the Highlands Council pursuant to B.1, above, shall in no case be approved by the reviewing Board unless: a) the proposed use of Conditional Water Availability remains equal to or less than that authorized by the Highlands Council through its formal findings; b) the proposed methods of deficit mitigation are consistent with those so approved; and c) the anticipated levels of mitigation are sufficient to meet the associated mitigation requirements. Nothing herein shall be construed to preclude the applicant from seeking a revised Highlands Council determination as to Conditional Water Availability, however.

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3. *Deficit Mitigation Requirements.* Applicants proposing the use of Conditional Water Availability shall comply with the deficit mitigation requirements herein.
- a) The mitigation requirement applicable to any development project derives from the Highlands Council *Scaled Mitigation Requirements* table, provided below (Table 1). The figures represent the applicable recharge requirement as a percentage of consumptive/depletive water use.

Table 1. Scaled Mitigation Requirements

| Deficit (MGD) | Proposed Consumptive or Depletive Water Use (gpd) | | | | |
|----------------|---|---------------|----------------|-----------------|---------|
| | <= 1,000 | 1,001 – 5,000 | 5,001 – 10,000 | 10,001 – 25,000 | >25,000 |
| 0.0001 – 0.050 | 125% | 125% | 125% | 150% | 150% |
| 0.051 – 0.100 | 125% | 125% | 125% | 150% | 150% |
| 0.101 – 0.250 | 125% | 125% | 150% | 150% | 175% |
| 0.251 – 0.500 | 125% | 150% | 150% | 175% | 200% |
| 0.501 – 1.000 | 125% | 150% | 175% | 175% | 200% |
| 1.000 – 7.100 | 150% | 175% | 175% | 200% | 200% |

- b) Deficit mitigation must be provided within the same HUC14 subwatershed as from which the source Conditional Water Availability derives. If the project and water source are not located in the same subwatershed, however, only mitigation measures that benefit the source HUC14 subwatershed may be utilized to mitigate the deficit.
- c) The approval of any application proposing off-site deficit mitigation measures, whether through enhanced recharge or offsets from water conservation, shall be subject to the receipt of approvals from the Highlands Council and any other entities having jurisdiction over the activities proposed at the off-site location (whether located within or outside of the municipality).
- d) On-site deficit mitigation measures, whether from enhanced recharge or offsets from water conservation shall be subject to the following criteria:
- (i) Water Conservation Measures. Water Conservation Measures may be credited toward mitigation requirements only with respect to existing land uses with consumptive or depletive water uses. (Such measures must be incorporated into the design of any new improvements, in accordance with § 6.7.3, above.) Approval of any application proposing such measures shall be conditioned upon implementation of the measures prior to receipt of any Certificate of Occupancy or Approval for the project improvements. If conservation measures include such methods as reduced irrigation of landscaping, protective covenants (e.g., homeowner’s association by-laws) or other such legal mechanisms must be established to ensure their enforceability.
 - (ii) Recharge Measures. The applicant shall include the proposed mitigation measures in the project stormwater management plan, stormwater operation and maintenance manual, and applicable components of site design. The stormwater management plan and O&M manual shall achieve permanent maintenance and routine monitoring of the mitigation measure(s) so that the required rate of recharge is continuously achieved.
- e) Any application for which deficit mitigation requirements cannot be achieved, shall not be approved by the reviewing authority. The applicant may modify any such proposal, however, to reduce the consumptive or depletive water uses to a level at which achieving deficit

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mitigation requirements is feasible. All applicants shall demonstrate compliance with these standards through submission of a Deficit Mitigation Plan, as provided below.

4. *Deficit Mitigation Plans.* All applicants proposing deficit mitigation shall prepare and submit Deficit Mitigation Plans for approval which shall include the following elements:
 - a) Detailed justification for the proposed Conditional Water Availability use and documentation that the amount of consumptive or depletive use is minimized (including the conservation measures outlined in subsection § 6.7.3, above).
 - b) Engineering plans and drawings of mitigation facilities proposed to provide the necessary mitigation in the source HUC14 subwatershed.
 - c) Sufficient information to demonstrate that the mitigation measures are individually feasible and in the aggregate will meet or exceed the mitigation requirement.
 - d) Sufficient information to substantiate that the facility will recharge the ground water table such that it reasonably can be expected (e.g., using general ground water flow models) to support aquifer recharge, or to support stream flow with a travel time in excess of one month.
 - e) Proposed implementation schedule demonstrating compliance with the following timeframe targets:
 - (i) Satisfaction of mitigation requirements within one (1) year of issuance of building permit(s) if the consumptive or depletive water use is less than 20,000 gpd in the Planning Area or 10,000 gpd in the Preservation Area, on average.
 - (ii) Satisfaction of mitigation requirements within a longer time period for larger amounts, up to five (5) years from issuance of building permit(s), but no later than upon initiation of the consumptive or depletive water use, except for projects that involve a combination of high current water deficits and large proposed consumptive and depletive water uses as shown in the shaded areas of the table *Scaled Mitigation Requirements* (Table 1., above), in which case, on-site mitigation shall be successfully completed prior to initiation of the water use but may be implemented concurrent with on-site construction. Off-site mitigation shall be successfully completed prior to any on-site construction.
 - (iii) Mitigation requirements may be phased in keeping with the level of consumptive and depletive water use that actually occurs based on phased construction of a project.
 - f) Proposed operation, maintenance and monitoring requirements to ensure that sufficient recharge is maintained over time. These requirements shall at a minimum be sufficient to comply with N.J.A.C. 7:8 stormwater maintenance requirements.
5. ***Conditions of Approval.*** As a condition of any approval of a development application, inclusive of the proposed Deficit Mitigation Plan, pursuant to this subsection, the applicant shall:
 - a) Demonstrate that the entity designated to implement the Deficit Mitigation Plan is qualified and capable of carrying out the plan, regardless of the timeframe involved.
 - b) Provide proof of acceptance of all responsibilities for implementation of the Deficit Mitigation Plan by the responsible entity.

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- c) Provide a cost estimate for implementation of the Deficit Mitigation Plan, inclusive of a 10% contingency.
- d) Provide performance and maintenance guarantees in accordance with all municipal and MLUL requirements in amounts as approved by the municipal engineer, sufficient to ensure the installation and implementation of all required Deficit Mitigation Plan measures. Such guarantees shall be available to the municipality and secondarily, to the Highlands Council for implementation of the necessary deficit mitigation measures should the applicant fail to properly implement the measures according to the Deficit Mitigation Plan schedule. If the implementing entity is a public agency, the commitment must be in the form of a binding resolution or ordinance of the governing body, and the cost of implementation must be bonded to ensure sufficient resources.
- e) Ensure that the responsible entity shall report annually to the Highlands Council and the municipality regarding implementation of the Deficit Mitigation Plan until fully implemented, unless reporting is achieved through effectuation of a Water Use and Conservation Management Plan.
- f) Establish an ongoing system of such reporting which must operate until the relevant subwatershed is no longer in deficit, or until the reporting responsibility is absorbed into implementation of an approved Water Use and Conservation Management Plan.

§ 6.8 PRIME GROUND WATER RECHARGE AREAS

§ 6.8.1 Findings

Prime Ground Water Recharge Areas are those lands within a HUC14 subwatershed that most efficiently provide, in the aggregate, 40 percent of total drought recharge volume for the HUC14 subwatershed. Protection of such areas is vital to maintaining the quality and quantity of the ground water resources upon which both human and non-human communities in the Highlands Area heavily rely. It is the intent of the provisions herein to ensure that Prime Ground Water Recharge Areas of the Highlands Area receive the highest possible protection from intrusion to protect both the recharge capacity that they provide and the quality of the ground water supplies that they replenish.

§ 6.8.2 Applicability

The provisions of this section shall apply to any development application involving the Prime Ground Water Recharge Area (Exhibit 7), whether in the Preservation Area or the Planning Area.

§ 6.8.3 Standards

Disturbance of Prime Ground Water Recharge Area (PGWRA) by any regulated development shall be permitted only upon a finding by the reviewing board or other applicable municipal authority that the proposal complies with the provisions of this subsection.

- A. **Avoidance.** The proposed disturbance cannot be avoided. Development shall not occur in Prime Ground Water Recharge Areas unless either, the entirety of the subject property is located within a Prime Ground Water Recharge Area and thus cannot be avoided, or the disturbance represents the only viable alternate means to avoid Critical Habitat, Highlands Open Waters buffers, Moderately Constrained Steep Slopes, or Severely Constrained Steep Slopes, to the extent that these resources are also present upon the subject property.

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- B. **Minimization.** The proposed disturbance cannot be minimized. Where total avoidance is not feasible, total recharge area disruption (i.e., alteration of natural recharge patterns or volumes) shall not exceed 15% of the Prime Ground Water Recharge Area located within the affected parcels, placed where feasible on those parts of the PGWRA having the lowest relative recharge rates and the least potential for aquifer recharge based upon site analysis.
- C. **Low Impact Development.** The proposal incorporates Low Impact Development practices. Low Impact Development practices (see § 7.2) shall be used in the design of the development proposal to reduce total recharge disruption to the minimum feasible, within the 15% cap.
- D. **Mitigation.** The proposal includes a PGWRA Mitigation Plan. Any development application involving disturbance of a Prime Ground Water Recharge Area shall be accompanied by a mitigation plan, providing for an equivalent of 125% of pre-construction recharge volumes for that portion of the Prime Ground Water Recharge Area that will be disturbed. The recharge mitigation shall occur within the following areas, in order of priority: (1) the same development site to the maximum extent feasible; (2) the same HUC14 subwatershed; or (3) where no feasible option exists in the same HUC14 subwatershed, an interrelated HUC14 subwatershed approved by the Highlands Council.

§ 6.8.4 Potential Contaminant Sources

Where any use or structure classified as a Major Potential Contaminant Source (PCS) (as listed at APPENDIX B) is proposed to be located or expanded within a Prime Ground Water Recharge Area, the standards of approval provided at subsection § 6.9.3 below, shall apply in addition to the preceding requirements.

§ 6.9 WELLHEAD PROTECTION

§ 6.9.1 Findings

Protection of ground water resources that directly provide water to potable water supply wells is vital to the public health, safety and welfare of the community. It is also of primary importance to ensure continued availability of clean drinking water to all that rely upon it. Through regulation of land use, physical facilities and other activities within Wellhead Protection Areas (WHPAs), the potential for ground water contamination can be reduced by preventing the introduction and migration of pollutants into ground water sources that supply water supply wells.

§ 6.9.2 Applicability

The provisions of this section shall apply to all proposed development activities in designated Wellhead Protection Areas (Exhibit 7) in the Highlands Area, whether in the Preservation Area or the Planning Area.

§ 6.9.3 Potential Contaminant Sources

Where any permitted use or structure classified as a Major Potential Contaminant Source (PCS) (as listed at APPENDIX B) is proposed to be located or expanded within a Tier 1 Wellhead Protection Area, the standards of this subsection shall apply. As noted previously, these standards shall also apply to any Major PCS proposed to be located or expanded in: a) any Carbonate Rock Area containing karst features; b) any area discharging surface water into a Carbonate Rock Area determined to contain karst features; and c) any portion of a Prime Groundwater Recharge Area. These conditions shall not be construed to waive or obviate any rules, regulations, or other requirements pertinent to such uses that may derive from outside agencies having jurisdiction, such as the NJDEP.

- A. **Best Management Practices.** All Major PCS facilities shall be designed in a manner that prevents the unintentional discharge of toxic or hazardous pollutants to ground water, surface water bodies, or the

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land surface, from all internal and external areas, including loading, storage, and transfer areas, in accordance with the provisions of this section.

1. All portions or areas of a facility in which hazardous substances or hazardous wastes are stored, processed, manufactured or transferred outdoors, shall be designed so that the discharges of hazardous substances will be prevented from overflowing, draining, or leaching into the ground water or surface waters.
2. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
3. Wherever hazardous substances are stored, processed, manufactured or transferred outdoors, the design features shall include secondary containment and/or diversionary structures which may include but are not limited to any one or a combination of the following:
 - a) Containers, dikes, berms or retaining walls sufficiently impermeable to contain spilled hazardous substances, for the duration of a spill event.
 - b) Curbing.
 - c) Gutter, culverts and other drainage systems.
 - d) Weirs, booms and other barriers.
 - e) Lined diversion ponds, lined lagoons and lined retention basins, holding tanks, sumps, slop tanks and other collecting systems.
 - f) Drip pans.
4. Secondary containment and/or diversionary systems, structure or equipment must meet the following standards:
 - a) The system must block all routes by which spilled hazardous substances could be expected to flow, migrate, or escape into the ground water or surface waters.
 - b) The system must have sufficient capacity to contain or divert the largest probable single discharge that could occur within the containment area, plus an additional capacity to compensate for any anticipated normal accumulation of rainwater.
 - c) In order to prevent the discharge of hazardous substances into ground water, all components of the system shall be made of or lined with impermeable materials sufficient to contain the substance for the duration of a spill event. Such material or liner must be maintained in an impermeable condition.
 - d) No manufacturing area, processing area, transfer area, dike storage area, or other storage area, or secondary containment/diversion system appurtenant thereto shall drain into a watercourse, or into a ditch, sewer, pipe or storm drain that leads directly or indirectly into a surface or subsurface disposal area, unless provision has been made to intercept and treat any spilled hazardous substances in an NJDEP approved industrial wastewater treatment or pre-treatment facility, or other NJDEP approved facility.

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- e) Outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s).
 5. Catchment basins, lagoons and other containment areas that may contain hazardous substances shall not be located in a manner that would subject them to flooding by natural waterways.
 6. Stormwater shall be managed so as to prevent contamination of ground water, and so as to be in accordance with applicable laws and regulations of the state of New Jersey, and of the municipality.
 7. All transfers of petroleum from delivery trucks and storage containers over five gallons in capacity shall be conducted over an impervious surface having a positive limiting barrier (e.g. berm, lip) at its perimeter
- B. ***Compliance Mechanisms.*** Any of the following permits and authorizations shall be considered equivalent to the best management practices of this Ordinance. As applicable to the PCS involved, these may also be submitted in lieu of an Operations and Contingency Plan, as otherwise required under subsection § 6.9.3.C, following.
1. A NJPDES permit approved by NJDEP pursuant to N.J.A.C. 7:14A;
 2. An underground storage tank approved by NJDEP under N.J.A.C. 7:14B;
 3. A Discharge Prevention, Containment and Countermeasure Plan (DPCC) approved by NJDEP pursuant to N.J.A.C. 7:1E;
 4. A hazardous waste remedial action approved by NJDEP pursuant to N.J.A.C. 7:26B, 26C, 26D or 26E, or by the United State Environmental Protection Agency pursuant to the Resource Conservation Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA);
 5. A hazardous waste facility approved by NJDEP pursuant to N.J.A.C. 26G;
 6. Approval by the SCD of a Farm Conservation Plan or Resource System Management Plan pursuant to N.J.A.C. 2:92, (see § 6.10.4 below and APPENDIX E);
 7. A solid waste facility approved by NJDEP pursuant to N.J.A.C. 26H; and
 8. A high-density Animal Waste Management Plan, an Animal Waste Management Plan, or a Comprehensive Nutrient Management Plan, as appropriate, developed pursuant to N.J.A.C. 2:91.
- C. ***Operations and Contingency Plans.*** Unless one of the permits or approvals listed at § 6.9.3 B.1-8, above is provided, or the applicant certifies that no potential contaminants will be stored, discharged, manufactured or used on-site, as a condition of approval of any application involving a Major PCS, the applicant shall prepare and obtain approval of an Operations and Contingency Plan in accordance with the requirements herein. No Certificate of Occupancy or Approval (as appropriate) for the development shall be issued until or unless the qualified professional authorized to administer these provisions verifies that the Operations and Contingency Plan has been approved and is on file with the appropriate entities.

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- D. ***Approval of Operations & Contingency Plans.*** The proposed Operations and Contingency Plan shall be submitted to the Board of Health (or equivalent acting authority), Fire Department, Police Departments and Office of Emergency Management, as applicable. These agencies shall review and make any appropriate recommendations for approval or modifications of the Operations and Contingency Plan. The applicant shall incorporate the recommendations to produce a final document, for review by the designated municipal professional and each of the participating agencies. The designated municipal professional shall coordinate the agencies' responses to ensure that the final Plan addresses all concerns of substance. Upon approval by the designated municipal professional, the Plan shall be filed with all applicable entities and put into effect as indicated therein. In the event of any irreconcilable issue in developing or finalizing the Plan, it shall be provided as proposed, to the reviewing Board, along with the recommendations of the designated professional, the participating agencies, and the applicant and applicant's agents and professionals. A decision by the reviewing Board shall be final.
- E. ***Required Content of Operations & Contingency Plans.*** An Operations and Contingency Plan shall be developed, where required under this Ordinance, for each Major PCS or group thereof (where multiple sources exist within a single facility owned and operated by a single entity) and shall address the following elements. The Operations and Contingency Plan must demonstrate that the potential for a significant discharge is the lowest technologically feasible:
1. Documentation of the applicable Major Potential Contaminant Sources existing and proposed for the site;
 2. Types and quantities of hazardous substances or wastes that may be used, discharged or stored on site;
 3. Means used to prevent the spillage, leakage or discharge of such materials;
 4. Means to be used to contain or remedy accidental spillage, leakage, discharge or migration of such materials from the site directly or indirectly into ground water;
 5. At a minimum, utilize best management practices as defined by § 6.9.3 and as specified by NJDEP and the United States Environmental Protection Agency, including but not limited to the regulations and guidance in the following areas: Discharge Prevention Containment and Countermeasures [N.J.A.C. 7:1E-4.2 (or most current)], Spill Prevention Control and Countermeasures [40 CFR 112.3 et seq.(or most current)], Stormwater and Non-point Source Pollution Control Best Management Practices Manual [NJDEP, April 2004 (or most current)].
 6. Specific training of facility personnel to contain or remedy accidental spillage, leakage, discharge or migration of such materials from the site directly or indirectly into ground water, or surface water bodies or the land surface that provide recharge to the underlying aquifer.
 7. Procedures including a contact list and phone numbers for notifying the appropriate administrative authorities, including but not limited to NJDEP, the local fire and police, local office of emergency management and the Board of Health, regarding any spillage or discharge of such materials; and
 8. Demonstration that the proposed facility is designed to employ best management practices to the maximum extent feasible.
- F. ***Confidentiality Protections.*** Any information included in an Operations and Contingency Plan which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure

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under 7 CFR Part 205.501 and 205.504 or the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., shall be held confidential by all local entities participating in its review or implementation, subject to the limitations set forth therein.

§ 6.10 AGRICULTURAL RESOURCES

§ 6.10.1 Findings

The Highlands Area contains fertile soils, receives plentiful rainfall, and is characterized by a moderate climate favorable to agricultural and horticultural production. The agricultural industry is vital to the State, the region and the community not only for local provision of agricultural products, but for the economic benefits associated with agricultural production and for maintenance of the rural character associated with agricultural lands. It is the intent of this section to promote Sustainable Agriculture (as defined at § 3.2) in the Highlands Area by ensuring the long-term sustainability of agricultural resources and the viability of the agricultural industry. These provisions are intended to ensure a healthy agricultural environment and a sufficient agricultural land base, by protecting farmland and farm soils, promoting farmland preservation, and providing the allowances necessary to permit and support farming and farm operations.

§ 6.10.2 Applicability

The provisions of this section apply to agricultural and horticultural uses in the Highlands Area. These provisions shall apply to both the Preservation Area and the Planning Area.

§ 6.10.3 [Reserved]

§ 6.10.4 Conditions of Approval

The approval of any application for agricultural or horticultural development in the Highlands Area is subject to specific requirements concerning the development and implementation of farm conservation plans, as provided in this subsection.

- A. **Preservation Area.** The approval of any proposal for agricultural or horticultural development in the Preservation Area is subject to specific requirements of the Highlands Act, as provided at APPENDIX D, enforceable by the NJDA or the local Soil Conservation District in accordance with the NJDA Agricultural Development in the Highlands Rules (N.J.A.C. 2:92, APPENDIX E).
- B. **Planning Area.** The approval of any proposal for agricultural or horticultural development in the Planning Area is subject to the specific requirements listed at B.1 through B.3, below, which are enforceable by the Highlands Council. As a condition of any local approval, the owner or operator of the Farm Management Unit or his/her agent shall be required to obtain a release from the Highlands Council indicating that these requirements have been or will, by formal agreement or other appropriate means, be satisfactorily addressed. This condition shall be satisfied only by submission of a copy of formal notice of such release issued by the Executive Director of the Highlands Council. No permit(s) shall be issued and no land disturbance in connection with the approval shall be permitted until or unless this condition has been satisfied.
 1. **Farm Conservation Plan.** The development and implementation of a Farm Conservation Plan (prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD) is required as a condition of approval for any agricultural or horticultural development that would result in the increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) but less than nine percent (9%) to the total land area of a Farm Management Unit (as

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defined at § 3.2 above). Solar panels (as defined at Article 3) shall not be included in any calculation of agricultural impervious cover pursuant to this subsection.

2. *Resource Management System Plan.* The development and implementation of a Resource Management System Plan (prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD) is required as a condition of approval for any agricultural or horticultural development that would result in the increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover by nine percent (9%) or greater to the total land area of a Farm Management Unit (as defined at § 3.2 above). Solar panels (as defined at Article 3) shall not be included in any calculation of agricultural impervious cover pursuant to this subsection.
3. *Plan Requirements.* Any Farm Conservation Plan required pursuant to this section shall be prepared in conformance with Sections III and IV of the June 1, 2005 NRCS New Jersey Field Office Technical Guide (available electronically at <http://www.nrcs.usda.gov/technical/efotg/>), as may be amended and supplemented by the NRCS, and shall include all items required under N.J.A.C. 2:92-3.1, for same (see applicable provisions at APPENDIX E). Any Resource Management Systems Plan required pursuant to this section shall be prepared in conformance with all Sections of the same Guide, inclusive of all items required under N.J.A.C. 2:92-4.1, as also provided in APPENDIX E.

§ 6.10.5 Right to Farm

Nothing in these provisions or in the whole of this Ordinance shall be construed to alter or compromise the goals, purposes, policies and provisions of, or lessen the protections afforded to farmers by, the Right to Farm Act, P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto.

§ 6.10.6 Approvals Subject to Outside Jurisdiction

The provisions of this section shall not be construed to alter or obviate the requirements of any other applicable state or county laws, rules, or regulations, including specifically N.J.A.C. 2:92, Agricultural Development in the Highlands, as promulgated by the New Jersey Department of Agriculture, or those of the SADC, the CADB, the Soil Conservation Districts, or the NJDEP.

§ 6.11 HISTORIC, CULTURAL & ARCHAEOLOGICAL RESOURCES

[Note: Adoption of regulations protecting Highlands Historic, Cultural and Archaeological Resources is encouraged but not required. To include such regulations, complete the sections below and supplement, as desired; otherwise delete this section in its entirety. The Highlands Council recommends that municipalities regulate historic, cultural and archaeological resources in a comprehensive manner, by adoption of applicable provisions in the local zoning/land development ordinances, which are not subject to Highlands Act exemptions or the exclusions of this ordinance. Township will finalize prior to adoption.]

§ 6.11.1 Findings

The historic, cultural and archaeological resources of the Highlands Area form an essential component of its character and aesthetic quality. They preserve a part of the history of the Township Highlands Area and provide a link to its past. They are representative of significant people, places and events in history and provide vital information about what life was like in the community in earlier times. Preservation of these resources is in the interest of the citizens of the Township, the surrounding region, the State of New Jersey, and in many instances, the nation as a whole. These resources provide a rich source of information from which to learn about the growth and development of our communities, our culture, our science and technology, and our way of life. They provide an educational opportunity, contribute to the community's sense of place, and add context to our everyday lives. It is the intent of this section to provide for the protection and preservation of the historic, cultural and archaeological resources of the Highlands Area.

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§ 6.11.2 Applicability

The provisions of this section shall apply to any development application involving property which is located either, among those identified as containing Highlands Historic, Cultural and Archaeological Resources at Exhibit 9 (and listed as such in the Highlands Element of the Master Plan), or which lies adjacent to any property containing or partially containing such Resources. These provisions shall apply to both the Preservation Area and the Planning Area, with the exception only of any application for Major Highlands Development requiring issuance of an HPAA from the NJDEP. *[Such applications are subject to comprehensive review for historic preservation protections under NJDEP Preservation Area Rules.]*

§ 6.11.3 Standards and Criteria

[Municipality to develop and complete as desired. Standards should include provisions and criteria applicable to review of development applications involving or potentially affecting sites/districts listed in the Highlands Historic, Cultural and Archaeological Resources Inventory.]

§ 6.12 SCENIC RESOURCES

§ 6.12.1 Findings

The scenic resources of the Township Highlands Area are part of the unique landscape that defines the Highlands Region. These resources are essential to the character and aesthetic quality of the Highlands Area and of the wider Region. Protecting these resources and maintaining the visual integrity and scenic beauty of noteworthy viewsheds and natural and cultural features of significance in the Highlands Region adds social, economic, and environmental benefits to the community. It is the intent of these provisions to ensure the protection of Highlands Area Scenic Resources, both from disturbances that may alter or damage such resources directly, or by intrusion(s) into scenic viewsheds that provide visual access to them, and of which they are a part.

§ 6.12.2 Scenic Resources Management Plan

Any development application involving property containing Highlands Scenic Resources pursuant to Exhibit 9 (and listed as such in the Highlands Element of the Master Plan), or which lies adjacent to any property containing or partially containing a Highlands Scenic Resource, shall comply with all requirements and ordinance provisions adopted pursuant to any Highlands Council-approved Scenic Resources Management Plan. This will occur once the municipality has, pursuant to all applicable provisions of the MLUL (N.J.S.A. 40:55D-1 et seq.) established an Historic/Scenic Resources Preservation Commission authorized to survey, advise and make recommendations concerning scenic resources, adopted an Historic/Scenic Resources Preservation Ordinance, listed a Resource included among the Highlands Scenic Resources (Exhibit 9) in the Historic/Scenic Preservation Element of the Master Plan, and by ordinance designated such Resource as a historic/scenic site or district in accordance with duly-established criteria.

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ARTICLE 7. HIGHLANDS AREA GENERAL REGULATIONS

§ 7.1 AFFORDABLE HOUSING

Nothing in this Ordinance shall be construed to waive, obviate, modify or otherwise exempt any covered development project, or any person proposing or involved in such project, from the applicable provisions of the municipal ordinances and any other regulations adopted consistent with the Fair Housing Act to ensure opportunity for low- and moderate-income housing. Neither shall the provisions of this Ordinance be construed to waive or exempt projects that include such housing, from adherence to the requirements of this Ordinance. Regulations applicable to the provision of low- and moderate-income housing in the municipality may be found at § 54-45 through § 54-47 of the underlying municipal zoning ordinance.

§ 7.2 LOW IMPACT DEVELOPMENT

§ 7.2.1 Applicability

The following provisions shall apply to all development applications involving property in the Highlands Area, whether in the Preservation Area or the Planning Area.

§ 7.2.2 Standards

- A. Applicants shall demonstrate that the project design process incorporates conservation design planning, including the following steps:
 - 1. Preparation of an existing features and site analysis plan, including identification of Highlands Area resources and Resource Areas;
 - 2. Evaluation of site context through identification of the physical and community character of the surrounding area;
 - 3. Selection of open space conservation areas, where applicable, that maximize the retention of resource values, provide connections to existing trails, open spaces or greenways, and incorporate natural features and characteristics as site amenities;
 - 4. Establishment of development yield (e.g., residential, retail, office) and apportionment of septic system yield, net water availability, and water supply and sewer utility availability, as applicable, and in keeping with all density and intensity requirements of § 5.3, above;
 - 5. Lay out of building lots, if applicable, and incorporation of low impact development design techniques for site design, stormwater management and resource protection; and
 - 6. Incorporation of resource standards and smart growth guidelines.
- B. Development applications must achieve stormwater management in compliance with § 7.4, below, including the municipal stormwater management ordinance established in compliance with the municipal stormwater NJPDES permit under N.J.A.C. 7:14A and 7:8, and all applicable NJDEP standards and requirements.
- C. Relief from the strict application of the provisions of the underlying municipal Zoning Ordinance applicable to site design shall be considered where necessary to provide for incorporation of smart

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growth principles and low impact development techniques such as use of shared parking and driveway areas, biofiltration swales, rainwater capture and reuse, and reduced road or driveway widths. Where such deviations will minimize or eliminate adverse impacts to Highlands natural resources, these benefits shall be given significant weight in the analysis of approval criteria.

- D. The site preparation plan shall limit clearing, grading and soil compaction to the minimum required to construct the project in accordance with the approved plans, inclusive of area for construction equipment maneuvering, while ensuring protection of mature trees and habitat outside of the site development area.
- E. Landscaping shall use native, drought-tolerant (other than where used in rain gardens, biofiltration swales and other stormwater management facilities), disease-resistant plants, allowing for natural landscaping wherever feasible, and shall under no circumstances include invasive species.
- F. Building orientation and design shall be designed to take advantage of micro-climate conditions, to the maximum extent feasible, to maximize solar gain for winter heating, and to minimize solar gain during high temperature summer conditions except where desirable for the construction of solar energy systems. Other energy-efficient features shall be considered and incorporated into site layouts and buildings, as appropriate.
- G. The applicant shall ensure reuse and recycling of building materials, to the extent possible, when development involves demolition.
- H. All low impact development features shall be maintained through a monitoring and maintenance plan, with procedures for replacing such features as necessary.

§ 7.3 CONSERVATION RESTRICTIONS

§ 7.3.1 Applicability

In the event that a Conservation Restriction is required to effectuate the purposes of this Ordinance, the provisions of this section shall apply. Nothing herein shall be construed to preclude the imposition of conservation restrictions in the case of Highlands Resources, Resource Areas, or Special Protection Areas, where the reviewing Board or other applicable authority finds that such restrictions are necessary to protect the particular resource(s) at issue, or to ensure the public health, safety, or general welfare of the community.

§ 7.3.2 Standards

Conservation Restrictions shall be designed to protect the Highlands Resources, Highlands Resource Areas, or Special Protection Areas existing (or as remaining after an authorized disturbance) on the subject property in accordance with the requirements that follow. Any such restrictions shall be so drawn and described as to permit the future use of any underutilized portion of either, the disturbed area coverage allowance or the impervious surface area allowance, as provided for exclusions pursuant to § 2.1.1, above.

- A. The conservation restriction shall run with the land on which the approved project is located, shall apply to all lots subdivided from that land and sold or transferred to other persons, and shall be binding upon the landowner and his or her successors in interest. To ensure that notice of the conservation restriction is provided to all present and future interested parties, the landowner or contract purchaser receiving the approval shall:
 - 1. Record the conservation restriction(s) in the office of the County Clerk or Register, as applicable prior to commencement of any work authorized under the approval; and

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2. Ensure that a copy of the conservation restriction is provided to the Highlands Council and to the Municipal Clerk with a request that it be placed in the file for the lot containing the approved project.
- B. The conservation restriction(s) shall describe and include all regulated features on the property, including any required mitigation. The proposed easement(s) shall be depicted in the proposed plans, inclusive in the case of major site plans and major subdivisions, of plan notes specifying the location and construction of clear and permanent on-site monuments, such as concrete posts, designed to minimize the need for land clearing and avoid obstruction of wildlife movement.
- C. The conservation restriction shall include either:
1. A survey and a metes and bounds description of the entire restricted area; or
 2. A parcel plan showing the survey boundary lines to the full extent of the subject property, and indicating the limits of the existing disturbance area, any additionally-approved disturbance area, and of any area excluded pursuant to § 2.1.1, with the indication that no further development or disturbance shall be permitted; or
 3. In the case of no proposed encroachment upon Highlands Resources or Areas, and availability of Highlands Council GIS mappings for all such Resources and Areas present upon the property, copies of all such mappings applicable to the parcel.
- D. In the case of preserved farmland or dedicated open space, the conservation restriction shall be enforceable by the Highlands Council and the municipality, and at least one of the following, as appropriate: the SADC or CADB, the NJDEP Green Acres Program, or a qualified non-profit land trust organization. All such easements shall require periodic monitoring to ensure that on-going land use and management practices remain protective of the subject resources.
- E. All other conservation restrictions shall be enforceable by the municipality and, for Planning Area lands, by the Highlands Council, and for Preservation Area lands, the NJDEP and the Highlands Council.
- F. The language to be included in the conservation restriction shall be reviewed and approved by the Municipal or Board Attorney, as applicable.

§ 7.4 STORMWATER MANAGEMENT

§ 7.4.1 Applicability

The provisions of this section shall apply to any development application involving property in the Preservation Area or the Planning Area, with the exception of any application requiring NJDEP issuance of an HPAA for Major Highlands Development in the Preservation Area.

§ 7.4.2 Standards

- A. ***Carbonate Rock Areas.*** Stormwater management plans shall be provided in connection with any application proposing development within a Carbonate Rock Area. Such plans shall be in full compliance with the provisions of § 6.5 above, and shall be approved only upon demonstration that potential hazards to public health and safety, structures and ground water quality due to concentrated surface water flows that dissolve carbonate rock, have been eliminated or otherwise addressed to the

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satisfaction of the reviewing engineer (or qualified professional). Development plans must indicate the means and methods by which such discharge shall be mitigated, with the maximum emphasis on use of nonstructural measures and avoidance of modifications to the karst features.

- B. ***Beneficial Stormwater Reuse.*** Development applications involving water demands for recreational uses, non-agricultural irrigation, and other non-potable uses shall demonstrate maximum practical stormwater reuse to minimize both the volume of stormwater discharges and the water demand sought for such purposes.
- C. ***Regional Stormwater Plans.*** The stormwater management aspects of any development plan shall comply with all applicable components of any regional stormwater management plans adopted by NJDEP pursuant to N.J.A.C. 7:8 and N.J.A.C. 7:15.
- D. ***Total Maximum Daily Loads (TMDLs).*** Applications shall be designed in compliance with any TMDL adopted by NJDEP (pursuant to N.J.A.C. 7:15) that has also been adopted by the municipality in compliance with the municipal stormwater management ordinance as established pursuant to the municipal stormwater NJPDES permit under N.J.A.C. 7:14A and 7:8.
- E. ***Prime Ground Water Recharge Areas.*** Where disturbance of Prime Ground Water Recharge Area (PGWRA) is permitted under § 6.8, above, the applicant shall demonstrate compliance with all provisions of § 5.2 and § 6.9, above.
- F. ***Water Quality.*** To the maximum extent feasible, the plan shall ensure recharge of clean stormwater rather than contaminated stormwater. Where runoff from contaminated areas is unavoidable, the applicant shall incorporate Low Impact Development (see H., below) and other Best Management Practices standards to minimize the discharge of stormwater-entrained pollutants to ground and surface waters.
- G. ***Wellhead Protection Areas (WHPA).*** Any stormwater management structure located within a WHPA shall be permitted only in compliance with the provisions of § 5.2 and § 6.9, above.
- H. ***Low Impact Development (LID).*** To the maximum extent feasible, LID techniques shall be incorporated into the design of all development proposals, to preserve, mimic and enhance the natural hydrologic cycle, drainage patterns and natural land cover existing on the site, including but not limited to:
 - 1. Implementation of on-site stormwater management features that maintain, restore and enhance the pre-existing natural drainage patterns of the site;
 - 2. Achievement of an on-site stormwater capture performance standard of 80% for average annual precipitation, using low impact development design techniques preferentially, and structural stormwater measures only to the extent necessary;
 - 3. Limitations on the amount of impervious cover on a site as a means to protect and increase stormwater infiltration and reduce stormwater runoff;
 - 4. Use of a “design with nature” approach where natural features are used or enhanced to achieve management of runoff volume, rate and quality of stormwater;

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5. Use of grass channels, dry swales, wet swales, infiltration basins, bio-swales and water gardens, green roofs, and other low impact approaches to attenuate and control stormwater and provide multiple environmental benefits; and
6. Minimization of: a) disturbances to natural vegetation and topography; b) exposure of stormwater runoff to pollutant-generating land uses; and c) alterations in the hydrologic response to precipitation through natural patterns.
7. Integration of stormwater management design features with public spaces, existing and proposed landscape features, and buffers, to the extent applicable.

§ 7.5 SPECIAL ENVIRONMENTAL ZONE

§ 7.5.1 Findings

Lands within the Highlands Special Environmental Zone are those having the highest priority ranking for preservation based on the Highlands Council Resource Assessment. This assessment considers five indicators for the protection of water resources and environmentally sensitive lands, including: Forest within the Forest Resource Area, Riparian Corridor Condition High, Highlands Open Water Protection Area, Critical Habitat, and the Water Quality Management Tier of Lake Management Areas (excluding those of the Lake Community Sub-Zone). Preservation of these lands is vital to: a) protecting Highlands Area water resources and environmentally sensitive lands; b) protecting water supply reservoirs and other critical water features; c) creating large contiguous areas of environmentally sensitive lands; d) creating habitat corridors; and e) connecting existing preserved open space.

§ 7.5.2 Applicability

The provisions of this section shall apply to any development application involving property which is located within the Special Environmental Zone (Exhibit 8). These provisions apply solely to the Preservation Area, in which the Special Environmental Zone is fully located.

§ 7.5.3 NJDEP Approval Required

Any development application involving a lot or lots located, or partially located, within the Special Environmental Zone, shall be approved only where authorized by, or conditioned upon issuance of an HPAA with waiver from the NJDEP.

§ 7.6 SEPTIC SYSTEM DESIGN AND MAINTENANCE

The requirements herein apply to proposed development activities reliant upon installation of individual subsurface septic disposal systems, regarding the proper operation, design, development, monitoring, placement and maintenance of septic systems.

- A. The design of septic systems shall be in compliance with the Standards for Individual Subsurface Sewage Disposal Systems at N.J.A.C. 7:9A and any applicable Board of Health Ordinance and shall be subject to approval of the Board of Health.
- B. All applications shall demonstrate that the proposed plan incorporates the applicable requirements of N.J.A.C. 7:9A with respect to soils suitability, location, size, and separation distances.
- C. All applications proposing new septic systems shall incorporate reserve septic system disposal areas for each septic system, which are sufficient with respect to soils suitability, location and size to meet the requirements of N.J.A.C. 7:9A, to ensure the long-term viability of septic systems in new development.

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- D. Any application proposing a new septic system (or systems) shall be conditioned upon filing of a deed restriction(s) or deed notice(s) protecting the delineated location(s) of the reserve septic system disposal field(s), prohibiting the placement thereon of any permanent structure(s), preserving the area (and its soils) for future installation of a replacement disposal field, and requiring that it be shown on all plans and referenced within any future applications for permits or improvements to the property.
- E. All new individual septic disposal systems shall be subject to any applicable septic system management and maintenance requirements of the Board of Health, including those established in the Board of Health Ordinance and in compliance with the standards for septic system maintenance in the Water Quality Management Planning Rules, N.J.A.C. 7:15.
- F. The application shall demonstrate compliance with any other Board of Health ordinances to achieve the maintenance of existing and new septic systems.
- G. New development proposing to use septic systems shall be designed in a manner that ensures that untreated well water meets state drinking water quality standards for non-natural contaminants and minimizes the risk of well contamination due to the flow of septic systems plumes within or between developed lots, addressing general background water quality and flow patterns, major fracture systems and other appropriate geological, geophysical and hydrogeological issues.

§ 7.7 PUBLIC WATER SYSTEMS

The creation or expansion of any public water system, as permitted in the Existing Community Zone of the Planning Area (pursuant to § 5.3.7, above) shall comply with the following requirements:

- A. **Estimation of Need.** Development water supply demands shall be calculated based on maximum summer month demand and on annual average demand using demand factors in N.J.A.C. 7:10 “Safe Drinking Water Regulations.”
- B. **Water Resource Transfers.** Applicants shall demonstrate that under the proposed action either:
 - 1. No new or increased water transfer between subwatersheds will occur; or
 - 2. No other option exists to meet public health, safety and welfare objectives, and where such transfers do occur, they are in full compliance with the requirements of § 6.7 above (Water Conservation and Deficit Mitigation), including limitations on demands on the source subwatershed.

§ 7.8 WASTEWATER COLLECTION AND TREATMENT SYSTEMS

The creation or expansion of any wastewater collection and treatment system, as permitted in the Existing Community Zone (including the Lake Community Sub-Zone) of the Planning Area (pursuant to § 5.3.7, above), shall comply with the following requirements:

- A. **WQMP Consistency.** The proposed system shall be consistent with the relevant Areawide Water Quality Management Plan adopted by NJDEP pursuant to N.J.A.C. 7:15.
- B. **Prohibitions.** Expansion of sewer service areas shall not be permitted for existing wastewater collection and treatment systems that are non-compliant with NJPDES permit requirements for effluent quality.

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- C. ***Estimation of Need.*** Development wastewater demands shall be calculated based on maximum three month demand and on annual average demand using demand factors in N.J.A.C. 7:14A or N.J.A.C. 7:9A as appropriate.
- D. ***Water Resource Transfers.*** Applicants shall demonstrate that under the proposed action either:
1. No new or increased water transfer between subwatersheds will occur; or
 2. No other option exists to meet public health, safety and welfare objectives, and where such transfers do occur, they are in full compliance with the requirements of § 6.7 above (Water Conservation and Deficit Mitigation), including limitations on demands on the source subwatershed.

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ARTICLE 8. [RESERVED]

ARTICLE 9. APPLICATION REVIEW PROCEDURES & REQUIREMENTS

§ 9.1 APPLICATION PROCEDURES

All procedural requirements regarding applications for zoning permits, construction permits, certificates of occupancy or approval, variance relief, site plan approval, subdivision approval, interpretations, appeals, and any other such application in the Highlands Area shall remain in effect as provided pursuant to the underlying municipal land use ordinances and other applicable codes and regulations in effect at the time of the application, except to the extent these may be modified by the provisions set forth herein.

§ 9.1.1 When Required

All requirements stipulating the circumstances under which such permits or approvals are required, as set forth by the underlying municipal zoning and land use ordinances, and any other applicable codes and regulatory requirements shall remain in full force and effect for the Highlands Area as provided pursuant to such regulations, inclusive of the specific definitions used therein to classify applications for review and consideration by the appropriate municipal authority, including but not limited to such terms as: “major site plan,” “minor site plan,” “major subdivision,” “minor subdivision,” “use variance,” “conditional use variance,” “change in use,” “bulk variance,” “zoning permit,” and “building permit.” In the event that the underlying municipal land use ordinances do not require issuance of a permit or other approval for any activity, improvement, or development project covered under the provisions of this Ordinance, a Highlands Resource Permit shall be required in accordance with the provisions of § 9.1.6, below.

§ 9.1.2 Highlands Act Exemptions

Pursuant to § 2.1.1 D above, any application proposing an activity, improvement or development project that qualifies as a Highlands Act Exemption is exempt from the requirements of this Ordinance. Any applicant asserting same, shall, as a condition of application completeness, and in any case prior to municipal review or approval of the application, provide evidence that the proposal qualifies as a Highlands Act Exemption as provided under either, A or B, below.

- A. **State Agency Determination.** State Agency Determinations shall include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal, in either case, indicating that the proposal qualifies as a Highlands Act Exemption. State Agency Determinations are required for any application under this Ordinance involving Highlands Act Exemption #14 or #15. State Agency Determinations are also required for any capital or other project of any State entity or local government unit, or for any other publicly-owned or controlled land or facility; these categories including any project or improvement pertaining to the lands or facilities of the Township of Rockaway.
- B. **Municipal Determination.** Pursuant to Township Ordinance #_____, entitled “Township of Rockaway Highlands Area Exemption Ordinance,” effective as of [insert date] _____, for any application under this Ordinance involving Highlands Act Exemptions #4, #6, #7, or #8, the applicant may request and shall be deemed to have satisfied the evidentiary requirement by obtaining a Municipal Exemption Determination issued by the Municipal Exemption Designee, provided such Determination indicates that the proposal qualifies as a Highlands Act Exemption. The applicant may rely upon the findings of a Municipal Exemption Determination to the same extent and with the same

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protections as would apply in the case of a Highlands Exemption Determination issued by the Highlands Council, or of a HAD issued by the NJDEP.

§ 9.1.3 Approvals Subject to Compliance

Approval of any land use-related application pertaining to the Highlands Area, whether a zoning permit application, building permit application, Application for Development (as defined at § 3.2), or any other such application, unless deemed a Highlands Act Exemption pursuant to § 9.1.2 above, is subject to compliance with the provisions of this Ordinance. Prior to any such approval, the reviewing entity shall ensure that the proposed activity, improvement or development project that is the subject of the application under its jurisdiction, is either in full compliance with all applicable provisions of this Ordinance; has received approval(s) from the entity or entities authorized to grant relief from such provision(s); or by its conditioned approval, where permitted herein, will remain subject to the issuance of such approval(s) from the entity or entities authorized to consider and issue such relief, with such approval(s) to issue prior to any land disturbance related to the proposed activity, improvement or development project.

- C. ***Building/Construction Permit Applications.*** Demonstration of compliance with all applicable provisions of this Ordinance shall be required as a Prior Approval to the issuance of any building permit. Proof of such compliance shall be provided in writing, as issued by the applicable reviewing authority or authorities, including but not limited to the Township Land Use Administrator or Planning Consultant.
- D. ***Zoning Permit Applications.*** Demonstration of compliance with all applicable provisions of this Ordinance shall be required prior to the issuance of any zoning permit or zoning approval. Where a finding of compliance requires authority or professional expertise outside the purview of the Zoning Official, such proof shall be provided in writing by the applicable reviewing authority or authorities, including but not limited to the Township Planner, Engineer, Planning Board, Zoning Board of Adjustment, Board of Health, Health Department. In such instances, receipt of such findings of compliance shall constitute mandatory Prior Approvals to the issuance of any zoning permit or approval.
- E. ***Applications for Development.*** Prior to granting any approval of an Application for Development, the Planning Board or Zoning Board of Adjustment, as applicable, shall make specific findings of compliance with regard to the applicable provisions of this Ordinance, such findings assisted by the advice and recommendations of the reviewing Board's professionals, including but not limited to the Board Planner, the Board Engineer, and any specialist, expert or other consultant engaged by the Board to assist in any field of specialization. The reviewing Board shall attach certain conditions to any such approval as provided at § 9.2.3 below, but is by no means limited solely to these in making its determination on an application.

§ 9.1.4 Applications Requiring Prior Highlands Council Approval

For any application listed in this subsection, authorization by the Highlands Council shall be obtained prior to a finding of application completeness, and prior to any review or approval of the application by the applicable municipal authority. In all such cases, applications shall be filed with the Highlands Council in accordance with its established submission and procedural guidelines.

- A. ***New/Extended Utility Infrastructure.*** Any application proposing installation of new or extended water supply or wastewater collection/treatment utility infrastructure in any Planning Area Zone or Sub-Zone other than: a) the Existing Community Zone (excluding the Existing Community Environmentally Constrained Sub-Zone), or b) Lake Community Sub-Zone, pursuant to § 5.3.7.

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- B. **Water Availability.** Any application proposing new or increased use of potable or nonpotable water averaging 6,000 gallons per day or more, pursuant to § 6.7.2, unless regulated under a Highlands Council-approved Water Use and Conservation Management Plan.

§ 9.1.5 Applications Requiring Prior NJDEP Approval [Optional]

For any applications listed in this subsection, approval by the NJDEP shall be obtained prior to a finding of application completeness, and prior to any review or approval of the application by the applicable municipal authority. [*Municipality to select and tailor as per NJDEP instructional materials.*]

- A. **Major Highlands Developments.** Any application for a Major Highlands Development in the Preservation Area as defined by the NJDEP Preservation Area rules at N.J.A.C. 7:38.
- B. **New/Extended Utility Infrastructure.** Any application proposing the installation of new or extended water supply or wastewater collection/treatment infrastructure in any portion of the Preservation Area.

§ 9.1.6 Findings of Compliance

With regard to any application, or any specific aspect of an application for which the Highlands Council or the NJDEP has explicitly issued an approval, the applicable reviewing authority shall find that, to the extent the approval specifically addresses the provisions of this Ordinance, the applicant has demonstrated compliance. Such approvals shall not be construed to waive or obviate other applicable provisions of this Ordinance or of any other applicable municipal or non-municipal ordinances, regulations or requirements. With respect to all other findings of compliance, the provisions of this subsection shall apply.

- A. **Professionals Required.** Findings of compliance with the provisions of this Ordinance shall be provided only by individuals qualified to review and make such determinations. In many but not all instances these shall require licensed, certified or otherwise qualified professionals such as scientists, engineers, planners or geologists. Fee and escrow requirements associated with applications requiring approval under this Ordinance, shall reflect the reasonable anticipated expenses associated with processing and reviewing such applications, as provided at § 9.3 below. The following professionals (where the term “professionals” is construed to include any and all qualified individuals licensed, certified, or otherwise eligible and authorized to complete such work, in accordance with the applicable laws and legal requirements of the State of New Jersey) shall, to the extent of their applicable licensure, certification, or other appropriate qualifications, be authorized to review and provide findings pursuant to this Ordinance, and shall be designated as required, by the municipal Governing Body or reviewing Planning Board or Zoning Board of Adjustment, as applicable:

1. *Use, Density, Intensity & Other Bulk Requirements:* Professional Planner; Professional Engineer; Zoning Officer
2. *Forest Resources:* Certified Tree Expert; Forester; Forest Scientist/Ecologist
3. *Highlands Open Waters, Riparian Areas, and Lake Management Areas:* Limnologist, Wetlands or Riparian Scientist/Ecologist, Environmental Engineer (as required for Water Quality Management issues)
4. *Steep Slopes:* Geologist; Professional Engineer; Topographic Surveys: Licensed Land Surveyor
5. *Carbonate Rock Areas:* Geotechnical Engineer; Geologist; other Professional Engineer or Geological Expert qualified and experienced in geological/geotechnical aspects of development

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6. *Water Conservation and Deficit Mitigation, Prime Ground Water Recharge Areas, Wellhead Protection Areas, Stormwater Management:* Hydrogeologist, Professional Engineer; Water Resources Engineer; Environmental Engineer
 7. *Low Impact Development:* Landscape Architect, Professional Engineer; Environmental Engineer; Professional Planner qualified and experienced in applicable areas
 8. *Conservation/Deed Restrictions:* Attorney
- B. ***Zoning and Building/Construction Permit Applications.*** Where a zoning or building/construction permit application (or request for approval) is not preceded by an Application for Development under the purview of the Planning Board or Zoning Board of Adjustment, the reviewing official shall rely upon the determination(s) of the individual designated in A., above for findings of compliance with respect to the applicable provisions of this Ordinance.
1. All determinations by the qualified professional shall be determinative in the disposition of any zoning or building/construction permit application with respect to required Prior Approvals.
 2. Where the professional determines that an approval may be granted subject to certain conditions, such conditions shall be addressed prior to the issuance of any permit or approval by the building or zoning official, unless in the estimation of the professional, satisfaction of the required conditions of approval will not be compromised by issuance of the zoning or building/construction permit and are ensured by other means, such as withholding of any final certificates of occupancy or approval.
 3. The findings of the review professional shall be provided in writing to both the municipal official(s) responsible for the review and disposition of the zoning or building/construction permit, and to the applicant. Where such findings indicate that the application is not compliant with the applicable provisions of this Ordinance, the review professional shall provide a statement identifying the reasons therefor. Where the review professional indicates that an approval may be granted pending satisfaction of certain conditions, a statement and explanation of the conditions to be attached shall be set forth as well as the reasons therefor.
 4. The findings of the review professional may be appealed by any affected party in accordance with the provisions of the underlying land use ordinance, pursuant to N.J.S.A. 40:55D-70(a).
 5. The professional review process shall occur as follows:
 - a) Upon notice from the municipal official(s) responsible for the review and disposition of the zoning or building/construction permit that a Prior Approval is required, it shall be the applicant's responsibility to prepare a request for review and issuance of such approvals by the designated municipal professional(s).
 - b) The applicant shall provide all of the documents and materials required for submission under an Application for Development pursuant to § 9.4, below, to the extent they apply with respect to the particular resources and Ordinance provisions at issue, for review by the professional.
 - c) The professional shall provide a completeness determination in writing, within thirty (30) days of receipt of the application materials, which in the event of an incomplete application, shall indicate the reasons therefor. The professional shall have the authority to waive submission of

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items he or she finds unnecessary or irrelevant to the evaluation and the required report of findings.

- d) The professional shall review and provide a report of findings to both the municipal official(s) and the applicant within forty-five (45) days of the date on which the application is deemed complete.
- e) In the event of a Carbonate Rock Investigation pursuant to § 6.5.3, above, the professional report of findings shall be provided in accordance with the program and scheduling as provided therein.
- f) The review professional shall have authority to issue such waivers and exceptions as provided only in accordance with Article 10, below.

C. ***Highlands Resource Permit Applications.*** In the event that the underlying municipal land use ordinances do not require issuance of a zoning or building permit, or approval of an Application for Development through which compliance with the provisions of this Ordinance may be demonstrated, the provisions herein shall apply.

- 1. Any person proposing an activity, improvement or development project that will affect a Highlands resource, Resource Area, or Protection Area, shall obtain a Highlands Resource Permit in accordance with this section.
- 2. Applications shall be made on forms provided by the municipality requiring identification of the owner of the property or properties at issue, the tax block and lot, street address, the extent, location and type of activity proposed, and by submission of a Consistency Determination Report from the Highlands Council website, an indication of the resources potentially affected by the proposed activity.
- 3. The designated review authority for such applications shall be the Township Planning Consultant.
- 4. The review and disposition of such applications shall occur as provided for zoning and building/construction permits, in the preceding sections, with approvals being issued only upon a finding of compliance.

D. ***Applications for Development.*** With respect to Applications for Development, findings of compliance shall be provided by the applicable professional(s) through the process of review and consideration undertaken by the Planning Board or Zoning Board of Adjustment. The reviewing Board (or its committee(s), if applicable) shall consider all such findings during the course of the Application for Development, in conjunction with all other relevant information and requirements in rendering a final decision in any matter.

§ 9.2 APPLICATIONS FOR DEVELOPMENT

The provisions of this section shall apply to any Application for Development (see § 3.2, above) under the jurisdiction of the Planning Board or Zoning Board of Adjustment.

§ 9.2.1 Notice & Reporting Requirements

The provisions of this section shall apply in addition to all requirements concerning public notice for Applications for Development as provided under the MLUL and required pursuant to the underlying municipal land use ordinances.

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- A. ***Notice of Application to Highlands Council.*** The applicant for any Application for Development shall provide notice to the Highlands Council at least ten (10) days prior to the date on which the application is scheduled for consideration by the local Board. A copy of the complete application shall accompany such notice regarding any Application for Development involving the potential disturbance of two (2) acres, or more, or a cumulative increase in impervious coverage of one (1) acre, or more. The applicant shall provide copies of any subsequent revisions to such applications to the Highlands Council at the same time these are provided to the reviewing Board. If such plans or plats have been prepared in digital form, they shall be provided to the Highlands Council in a digital format that meets Highlands Council standards for such submissions.

- B. ***Scenic Resource Notice Requirements.*** Where a project site falls within a Highlands scenic resource area designated by the Highlands Council, or within the Scenic Resources Tier of a Lake Management Area, that crosses municipal or county boundary lines, public notice requirements shall, in addition to the applicable notice requirements of the MLUL, incorporate any supplemental notice provisions as set forth in the adopted Scenic Resource Management Plan.

- C. ***Notice of Decision Required.*** The reviewing Board shall provide a certified copy of the fully-executed resolution memorializing its final decision regarding any Application for Development to the Highlands Council within ten (10) days of its adoption. This provision shall apply in all cases, whether the Board approves the Application for Development, denies it, or approves it with conditions.

§ 9.2.2 Board Decisions Subject to Highlands Council Call-Up

All Board decisions pertaining to Applications for Development involving the ultimate disturbance of two (2) acres or more of land or a cumulative increase in impervious surface by one (1) acre or more, are subject to call-up and subsequent review by the Highlands Council in accordance with procedural requirements and timeframes established pursuant to the Highlands Act. The Highlands Council may, on notice to the applicant within 15 days of receipt of the memorializing resolution of the reviewing Board, review and require a public hearing on the application. In that case, subsequent to the hearing the Highlands Council may approve the Application for Development, deny it, or issue an approval with conditions.

§ 9.2.3 Conditions of Approval

The following conditions of approval shall, in addition to any applicable conditions previously set forth under this Ordinance, be attached to any Application for Development approved pursuant to the MLUL, and the provisions of § 9.1, above.

- A. ***No Land Disturbance.*** No land disturbance approved in connection with an Application for Development involving the ultimate disturbance of two (2) acres or more of land or a cumulative increase in impervious surface by one (1) acre or more, shall occur until and unless, either:
 - 1. The Highlands Council call-up period has expired without issuance of a notice seeking review of the application by the Highlands Council; or
 - 2. The Highlands Council has issued notice and has reviewed the approval pursuant to N.J.S.A. 13:20-17(a)1 and has determined not to deny or modify the approval.

- B. ***Amendments.*** In the event that Highlands Council review of an approved Application for Development pursuant to § 9.2.2 above results in a finding that the plans must be modified, the applicant shall amend the application accordingly and submit the amended application to the reviewing Board for approval. Such submissions shall include the written findings and notice of decision of the Highlands Council.

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- C. **Conservation Restrictions.** The applicant shall commit to and, as a condition of approval, perfect a conservation restriction on the undisturbed portions of Highlands Resources, Highlands Resource Areas, and Special Protection Areas located on the subject property, if and as required pursuant to the provisions of § 7.3.
- D. **Approvals Conditioned on State Approvals.** All approvals shall be subject to the approval of any and all State agencies or other authorities having jurisdiction over any aspect or aspects of the approved Application for Development.
- E. **As-Built Surveys Required.** Prior to issuance of any final Certificate of Occupancy or Approval, or to the release of any performance bonding held in relation to the approved Application for Development, the applicant shall provide an “as-built” survey depicting the final site conditions.
- F. **Submission of Final Plans/Plats to Highlands Council.** The applicant shall provide a copy of any final site plan or subdivision plat to the Highlands Council. If such plans or plats have been prepared in digital form, they shall be provided to the Highlands Council in a digital format that meets Highlands Council standards for such submissions.

§ 9.3 APPLICATION FEE & ESCROW REQUIREMENTS (OPTIONAL)

The application fee and escrow requirements of this subsection shall apply in addition to all existing fee and escrow requirements, including procedural and legal requirements, as set forth in the underlying municipal land use ordinances. All application fees and escrows shall be managed and dispensed as prescribed under all applicable state and local requirements, including but not limited to those of the MLUL and the Uniform Construction Code. *[The municipality may modify the requirements of this section and set applicable fees and escrows as it deems appropriate. Township will insert fee and escrow amounts prior to adoption; guidance to be provided by the Highlands Council.]*

- A. **Highlands Resource Review.** The fee and escrow requirements herein shall apply to applications for Highlands Resource Permits, and to Zoning Permit and Building/Construction Permit applications for which Highlands Resource review is required as a prior approval pursuant to § 9.1.6.
 - 1. Highlands Resource Review Fees
 - a) Applications involving determinations regarding: permitted/prohibited uses, carbonate rock phase I investigation, water use and conservation, wellhead protection, prime ground water recharge, low impact development, or any combination of these: \$_____
 - b) Applications involving determinations regarding any one or combination of the following: density or intensity of development standards, forest resources, lake management, steep slopes, carbonate rock phase II investigation, water deficit mitigation, or stormwater management (including stormwater low impact development): *[The municipality may wish to set fees for these applications that are higher than those in 1.a above to cover the additional administrative costs involved in arranging for special professional services contracts.]* \$_____
 - c) Applications involving determinations regarding any combination of items listed in both 1.a and 1.b, above, shall be subject to the application fee listed at 1.b.
 - 2. Escrow Deposit Requirements

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- a) Applications requiring compliance determinations pursuant to any Highlands resource component listed in the following table shall be accompanied by the escrow deposits therein indicated. Where an application involves more than one of the listed application compliance components, escrow deposits shall be cumulative.

| Application Compliance Component | Escrow Deposit |
|---|----------------|
| a) Density or Intensity Standards | |
| b) Forest Resources | |
| c) Lake Management | |
| d) Steep Slopes | |
| e) Carbonate Rock, Phase II Investigation | |
| f) Water Deficit Mitigation | |
| g) Stormwater Management and Stormwater LID | |
| h) Conservation/Deed Restrictions | |
| i) Operations and Contingency Plans | |

- b) Escrow deposits shall be used by the municipality to cover the costs of professional reviews associated with the respective Highlands resource components. Where any escrow account is depleted to an amount equaling 25% or less of the original deposit amount, the status and progress of the application shall be reviewed by the applicable municipal official(s), and the professional responsible for Highlands resource review shall determine whether account replenishment is necessary, and if so, by what amount. On notice from the municipality of any such replenishment requirement, the applicant shall provide the additional escrow accordingly and within such timeframes as therein stated.

B. ***Applications for Development.*** All fee and escrow requirements pertaining to Applications for Development shall remain as set forth in the underlying municipal land use ordinances, with the adjustments provided herein as a supplemental requirement, applicable in the case of any application for which the reviewing Board requires professional assistance in making findings of compliance pursuant to § 9.1.6.

1. The required escrow deposit for applications involving determinations regarding any one or more of the following resource components shall be calculated by multiplying the existing escrow deposit requirement by 1.25: carbonate rock phase I investigation, water use and conservation, wellhead protection, prime groundwater recharge, low impact development.
2. The required escrow deposit for applications involving determinations as to any of the following resource components shall be calculated by multiplying the existing escrow deposit requirement by 0.25 for each applicable item, and adding each to the existing escrow deposit amount: density or intensity of development standards, forest resources, lake management, steep slopes, carbonate rock phase II investigation, water deficit mitigation, or stormwater management (including stormwater low impact development).
3. The required escrow deposit for any application involving determinations listed at both B.1 and B.2, above, shall be calculated by multiplying the existing escrow deposit requirement by 0.25 and adding the result to the amount determined under B.2.

§ 9.4 SUBMISSION CHECKLIST REQUIREMENTS

All applicants seeking approval for any activity, improvement or development project covered under the provisions of this Ordinance shall submit the materials required in this section for review by the applicable

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municipal authority. In no case shall an Application for Development (as defined in Article 3) be deemed complete or scheduled for Board review until such time as the Board has received all required items in accordance with the provisions herein. Applications for Highlands Resource Permits and for Zoning Permits and Building/Construction Permits requiring Highlands Resource review shall not be considered for such review until such time as the reviewing authority has received all required items in accordance with the provisions herein. In all cases, the submission requirements of this section shall be considered supplemental to the checklist requirements of the underlying municipal land use ordinances.

§ 9.4.1 General Submission Requirements

All applications shall be accompanied by the following:

- A. ***Application Fees and Escrow Deposits***
- B. ***Completed Application Forms*** (25 Copies)
- C. ***Highlands Act Exemptions.*** Any applicant claiming eligibility for an exemption under the Highlands Act shall provide one of the following:
 - 1. Municipal Exemption Determination as provided under § 9.1.2 (pursuant to Highlands Area Exemption Ordinance); or
 - 2. Highlands Applicability Determination from the NJDEP for a Preservation Area application; or
 - 3. Highlands Exemption Determination from the Highlands Council for a Planning Area application.
- D. ***Prior Approvals.*** All applications requiring prior approvals pursuant to the provisions of this Ordinance shall provide evidence of receipt of same, as listed below. All such applications shall be accompanied by copies of the specific plans, reports and other materials to which such approval applies.
 - 1. For any application proposing development within the Carbonate Rock Area pursuant to § 6.5.2, copies of Phase I Geologic Investigation report, Phase II Geotechnical Evaluation Report if applicable, associated certification(s) of sufficiency issued by Municipal Engineer, and all written evaluations, reports, recommendations issued by the Municipal Engineer pursuant to § 6.5.3.
 - 2. For any application proposing development within a Carbonate Rock Drainage Area pursuant to § 6.5.4, copies of Phase I Geologic Investigation report, associated certification of sufficiency issued by Municipal Engineer, and all written evaluations, reports, recommendations issued by the Municipal Engineer pursuant to § 6.5.3.
 - 3. For any application proposing an increase in the use of Net Water Availability or Conditional Water Availability pursuant to § 6.7, Notice of Findings issued by the Highlands Council pursuant to § 6.7.7.
 - 4. For any application proposing installation of new or extended water supply or wastewater collection/treatment utility infrastructure in any Planning Area Zone or Sub-Zone other than: a) the Existing Community Zone (excluding the Existing Community Environmentally Constrained Sub-Zone), or b) Lake Community Sub-Zone, pursuant to § 5.3.7, Notice of Authorization issued by the Highlands Council.

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5. [*Optional*]For any application for a Major Highlands Development in the Preservation Area as defined by the NJDEP Preservation Area rules at N.J.A.C. 7:38, an HPAA issued by the NJDEP.
 6. [*Optional*]For any application proposing the installation of new or extended water supply or wastewater collection/treatment infrastructure in any portion of the Preservation Area, an HPAA with waiver issued by the NJDEP.
- E. ***Mapping Instructions.*** All mapped information shall be provided for the full parcels affected by the proposed project and a distance of 200 feet from the outer boundaries of all affected parcels. Where this Ordinance requires field surveys of resources, the field survey requirement shall apply only to the affected parcels and shall be conducted by qualified professionals. These include specifically: contiguous steep slope areas of 5,000 square feet or more which are not within the Steep Slope Protection Area; areas defined as Forest via the methodology provided at Appendix A which are not identified within the Total Forest Area, or which revise the Total Forest Area; if required pursuant to § 6.6.4, the applicable limits of the Lake Management Scenic Resources Tier; and if deemed necessary by the review professional pursuant to § 6.5.4, the boundary lines of any Carbonate Rock Drainage Area. The area within 200 feet of the affected parcels may be mapped using existing data and is not subject to field surveys. Where field surveys are not required for mapping of Highlands resources, the application shall include Highlands Council GIS data. In addition to paper plans, initial plan sets shall be submitted on CD (or other acceptable archival electronic format) in the most recent version of ESRI Shape files (.shp) and in the most recent version of Adobe Acrobat® (.pdf) format. The plans must be geo-referenced using New Jersey State Plane Coordinates NAD83 (or the most current New Jersey State Plane coordinate system). The final approved version shall be submitted in the same manner. Plan revisions (subsequent to the initial plan sets but prior to final approved version) shall be submitted in .shp and .pdf either in archival electronic format or via e-mail. Projects that will disturb less than two (2) acres and will create less than one (1) acre of net impervious surface may be submitted as geo-referenced CAD files in lieu of the ESRI Shape files.

§ 9.4.2 Permit Applications

The submission requirements of this subsection shall apply in addition to those of § 9.4.1 above, in the case of all applications for Highlands Resource Permits and for Zoning or Building/Construction Permits requiring Highlands Resource Review. Where the reviewing authority or designated review professional determines that a submission item listed in this subsection is not applicable to the proposed development project or is unnecessary to the conduct of such review, the authority or designated professional may waive the requirement for its submission. A waiver of submission of any checklist item shall not be construed to preclude the reviewing entity from ultimately requiring the submission of such item, however, if during the course of application review, it is found necessary and relevant in making a determination.

A. ***Base Submission Requirements.***

1. Identification of Highlands Planning Area or Preservation Area and Highlands Zone or Sub-Zone in which the property is located (available through Highlands Council website).
2. Identification of Highlands Resource and Protection Areas in which the property is located, inclusive of Highlands Council maps indicating the boundary lines of same unless fully encompassing the property (Highlands Council website).
3. Existing and proposed use(s) and accessory use(s), including any proposed Major or Minor PCS (listed at APPENDIX B and APPENDIX C).

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4. Copy of property survey indicating metes and bounds, existing buildings, structures, impervious surfaces, significant site features (e.g. water bodies), easements or other such encumbrances.
5. Plans showing the proposed area of disturbance for all aspects of the development, including but not limited to buildings, driveways, utilities, landscaped areas and all appurtenant structures.
6. Plans showing the proposed grading, soil conservation plan, and sediment and soil erosion control plan.
7. Plans showing proposed conservation restrictions or easement(s) to be provided (if applicable) pursuant to § 7.3.
8. Plans documenting baseline conditions in all areas designated for public (or non-profit land trust) open space preservation.

9. Water Use

- a) Existing and proposed water demand inclusive of calculations based on use and unit/square footage equivalents listed at § 5.3.3.
- b) For any application proposing an average of 6,000 or more gallons per day of new or increased water use pursuant to § 6.7.2:
 - (i) All submission items required pursuant to any adopted municipal or subwatershed-based Water Use and Conservation Management Plan (WUCMP).
 - (ii) The following, where a WUCMP has not been adopted and the application proposes use of Conditional Water Availability pursuant to § 6.7.7B:
 - (a) Information identifying project water demand data, water supply source and water utility provider.
 - (b) Identification of the water supply source HUC14(s) for the project, deficit status, and conditional availability as provided by the Highlands Council.
 - (c) Deficit Mitigation Plan pursuant to § 6.7.7 B.4.

10. Septic Systems

- a) For all applications proposing new septic systems, plans showing the proposed location and configuration of such system(s), including designated area(s) for reserve septic disposal field(s) pursuant to § 7.6. Plan notes indicating that the septic system(s) shall be designed in accordance with N.J.A.C. 7:9A, and that design plans and details are subject to the approval of the Health Department.
- b) Proposed deed restrictions to be imposed to prohibit the installation or construction of any permanent improvements within the reserve disposal area(s) pursuant to § 7.6.

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11. Stormwater Management

- a) For applications regulated under municipal or regional stormwater management plans (or both), all applicable submission requirements pertinent thereto.
- b) Proposed Low Impact Development management practices to minimize the creation or increase of stormwater runoff due to development or disturbance of the site.

12. Low Impact Development

- a) Description of Conservation Design Planning process, pursuant to § 7.2.2.
- b) Landscape plan (if applicable) indicating proposed type, species, quantity and location of plantings; planting details.
- c) Description of energy efficiencies incorporated into building(s), building orientation and site design.
- d) Description of proposed reuse or recycling of building materials.

13. Any such additional information as the reviewing authority may find necessary to determine compliance with the provisions of this Ordinance.

- B. ***Highlands Resource Submission Requirements.*** For applications involving properties containing any Highlands Resource, Highlands Resource Area or Special Protection Area, all submission checklist items required pursuant to each, as provided at § 9.4.4 through § 9.4.11, below.

§ 9.4.3 Applications for Development

The submission requirements of this subsection shall apply in addition to those of § 9.4.1 and § 9.4.2 above, to all Applications for Development involving properties containing Highlands Resources or located within a Highlands Resource Area or Special Protection Area. Where the reviewing Board determines that a submission item listed in this subsection is not applicable to the proposed development project or is unnecessary in the conduct of its review, the Board may waive the requirement for its submission. A waiver of submission of any checklist item shall not be construed to preclude the reviewing Board from ultimately requiring the submission of such item, however, if during the course of application review, it is found necessary and relevant in making a determination.

- A. ***Base Submission Requirements.*** In addition to the Base Submission Requirements of § 9.4.2 above, the following shall apply:

- 1. Existing features and site analysis plan, identifying and mapping:
 - a) All Highlands Open Waters and water bodies (including but not limited to rivers, lakes, ponds, reservoirs, wetlands, seeps, springs);
 - b) All existing structures (including archaeological features, ruins and stone walls);
 - c) All significant physical features; and
 - d) Existing trails and greenways, and preserved lands and farmland.

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2. Architectural elevation renderings, if structures are proposed (preliminary for subdivision applications).
 3. A list of any pre-existing encumbrances affecting the property (e.g., easements, deed restrictions, covenants).
 4. Copies of any related surveys, site plans, professional reports and environmental site assessments.
- B. ***Highlands Resource Submission Requirements.*** For applications involving properties containing any Highlands Resource, Highlands Resource Area or Special Protection Area, all submission checklist items required pursuant to each, as provided at § 9.4.4 through § 9.4.11, below.

§ 9.4.4 Forest Resources

- A. Plans identifying forests using the Highlands Council Forest Resource Area, and Total Forest GIS layers for forest resources.
- B. Information identifying upland forests existing outside of the limits of the Total Forest Area by use of the Forest Determination methodology of APPENDIX A (N.J.A.C. 7:38-3.9).
- C. Where required in connection with disturbances pursuant to § 6.1.4, Forest Impact Report (§ 6.1.5) and Forest Mitigation Plan (§ 6.1.6).

§ 9.4.5 Highlands Open Waters and Riparian Areas

- A. Maps showing the location of all Highlands Open Waters, Highlands Open Waters buffers, and Riparian Areas, as provided in this Ordinance.
- B. For linear development pursuant to § 6.2.3 H, all items required as listed therein.

§ 9.4.6 Steep Slopes

- A. Map showing limits of Steep Slope Protection Area as provided in this Ordinance.
- B. Map showing any additional areas of contiguous steep slopes that, separately or in combination with the Steep Slope Protection Area, constitute an area of 5,000 square feet or more, including, for any proposed disturbance therein, clear delineation of slope classes as defined at § 3.2.
- C. For any application proposing linear development of a Moderately or Severely Constrained slope area pursuant to § 6.3.3A, all items as listed and required therein.
- D. For any application proposing disturbance of a Constrained or Limited Constrained slope pursuant to § 6.3.3B, a steep slope development plan indicating proposed Low Impact Development techniques, slope stabilization techniques, soil erosion and sediment control measures, stormwater controls, and methods of protection proposed for existing slope vegetation and trees.
- E. For any application proposing to disturb 5,000 square feet or more of Constrained or Limited Constrained Steep Slopes :
 1. Environmental Impact Statement or Report including specifically: the impact of the proposed development on Highlands Regional Scenic Resources; aesthetic impacts related to visibility and

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aesthetic quality of the proposed development; the extent of proposed landform grading, stabilization and retaining structures; and impacts on other environmental features addressed by the Steep Slopes provisions of this Ordinance.

2. Hydrology, drainage and flooding analysis report or reports prepared in support of conformance with the municipal stormwater management plan and regulations adopted pursuant to N.J.A.C. 7:8, or a Flood Hazard Area Control Act application pursuant to N.J.A.C. 7:13.

§ 9.4.7 Critical Habitat

- A. Maps identifying Critical Habitat using the Critical Habitat GIS layers for Critical Wildlife Habitat, Significant Natural Areas and Vernal Pools, as provided in this Ordinance.

§ 9.4.8 Carbonate Rock Areas

- A. Map identifying the limits of Carbonate Rock Area as provided in this Ordinance.
- B. For applications proposing development within any Carbonate Rock Drainage Area, map identifying the limits of same.
- C. Identification and description of any existing or proposed Major Potential Contaminant Source (APPENDIX B), and proposed Best Management Practices pursuant to § 6.9.3 A.

§ 9.4.9 Lake Management Areas

- A. Map identifying the Lake Management Area and Lake Management Tier(s) as provided in this Ordinance.
- B. For linear development with a Shoreland Protection Tier (Highlands Open Waters buffer) pursuant to § 6.2.5 H, all items required as listed therein.
- C. For proposed disturbance of a Water Quality Management Tier, a stormwater management plan pursuant to § 6.6.3.
- D. For any proposed development within the Scenic Resources Tier, a visual assessment survey, tree protection plan, and exterior lighting plan pursuant to § 6.6.4 B.

§ 9.4.10 Prime Ground Water Recharge Areas

- A. Map identifying Prime Ground Water Recharge Areas as provided in this Ordinance.
- B. For any application proposing to disturb a Prime Ground Water Recharge Area:
 1. Site analysis and proposed Low Impact Development techniques pursuant to § 6.8.3.
 2. PGWRA Mitigation Plan pursuant to § 6.8.3 D.
 3. Hydrology, drainage and flooding analysis report or reports prepared in support of conformance with municipal stormwater management plan and regulations pursuant to N.J.A.C. 7:8 or a Flood Hazard Area Control Act application pursuant to N.J.A.C. 7:13.

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4. Site specific Geologic, Hydrogeologic and Pedologic analysis to determine the overall recharge rate and volume and to determine the location with the lowest recharge potential within the PGWRA. The submitted analysis report shall include appropriately scaled geologic, hydrogeologic and pedologic maps and cross sections showing all pertinent geologic, hydrogeologic and pedologic features. The report shall also present all relevant analytical results, calculations and graphical data.
- C. Identification and description of any existing or proposed Major Potential Contaminant Source (APPENDIX B), and proposed Best Management Practices pursuant to § 6.9.3 A.

§ 9.4.11 Wellhead Protection

- A. Map identifying Wellhead Protection Areas (WHPAs) and time of travel Tiers as provided in this Ordinance. Where more than one WHPA Tier intersects an existing or proposed Potential Contaminant Source (APPENDIX B and APPENDIX C) within a project site, identify the more protective Tier as the applicable Tier for that Potential Contaminant Source.
- B. Identification and description of any existing or proposed Major or Minor Potential Contaminant Sources (APPENDIX B and C).
- C. For parcels within a Tier 1 WHPA for which a new or expanded Major PCS is proposed, the proposed Best Management Practices pursuant to § 6.9.3 A.
- D. Copies of any related hydrogeologic/geologic reports, remediation reports, results of soil or ground water analyses or other environmental assessment reports (i.e., Phase I or Phase II reports).

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ARTICLE 10. APPEALS, WAIVERS, EXCEPTIONS

§ 10.1 APPLICABILITY

Except to the extent modified by the provisions of this Article, the existing provisions of the underlying municipal land use ordinance with respect to appeals, waivers and exceptions shall remain in full force and effect. This Article shall not be construed to alter the applicable timeframes, procedural requirements or criteria for decision-making as set forth under the MLUL, and as provided consistent therewith in the underlying municipal land use ordinance.

§ 10.2 APPEALS

- A. ***Administrative Officer Decision.*** Any order, requirement or decision of any municipal official made or issued in the course of the enforcement of the provisions of this Ordinance may be appealed to the Zoning Board of Adjustment in accordance with all applicable provisions of the MLUL (including but not limited to N.J.S.A. 40:55D-70(a), -70.2, and -72 through -75).
- B. ***Interpretations.*** Requests for interpretation of the maps and various provisions of this Ordinance may be made by application to the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70(b). The Board, in rendering any such decisions shall be guided by the map protocols listed at § 4.5 and the specific language of the Ordinance provisions in question. The Board may seek the advice and counsel of the Highlands Council or if applicable to a Preservation Area boundary line, the NJDEP, in resolving any matter of interpretation and all final Board decisions shall remain subject to Highlands Council call-up and review provisions as set forth at § 9.2.2.
- C. ***“C” Variances.*** All MLUL criteria applicable to variance relief under N.J.S.A. 40:55D-70(c) shall apply in the consideration of applications seeking such relief from the provisions of this Ordinance. Such relief shall apply with respect to the requirements of Article 5, Zone District Regulations with the exception that for the items listed at E, below, relief shall in addition require prior authorization of the Highlands Council. Where certain deviations from the strict application of the provisions of this Ordinance or the underlying municipal Zoning Ordinance will minimize or eliminate adverse impacts to Highlands Resources, Resource Areas, or Special Protection Areas, these benefits shall be given significant weight in the analysis of approval criteria.
- D. ***“D” Variances.*** All MLUL criteria applicable to variance relief under N.J.S.A. 40:55D-70(d) shall apply in the consideration of applications seeking such relief from the relevant provisions of this Ordinance. Such relief shall apply with respect to the requirements of Article 5, Zone District Regulations-with the exception that for the items listed at E, below, relief shall in addition require prior authorization of the Highlands Council. Where certain deviations from the strict application of the provisions of this Ordinance or the underlying municipal Zoning Ordinance will minimize or eliminate adverse impacts to Highlands Resources, Resource Areas, or Special Protection Areas, these benefits shall be given significant weight in the analysis of approval criteria. For purposes of clarification, requests for relief that pertain to specific provisions of this Ordinance regarding permitted uses shall be cognizable as requests for “d” variance relief pursuant to N.J.S.A. 40:55D-70(d).
- E. ***Highlands Council Jurisdiction.*** Relief from any of the following specific provisions of Article 5 of this Ordinance may be granted by the reviewing Board or other municipal authority only where a waiver has been issued by the Highlands Council. No such application shall be deemed complete or

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considered for review by the Board or other municipal authority absent such authorization. Applicants seeking any such relief shall make application directly to the Highlands Council.

1. *Prohibited Uses.* All provisions of § 5.2.3.
2. *Water Availability Requirements.* All provisions of § 5.3.3.
 - a) *Density.* Any Planning Area application proposing a new or expanded septic system pursuant to § 5.3 or § 8.1, in excess of the permitted septic system density allowance.

§ 10.3 WAIVERS AND EXCEPTIONS

Relief from any provision of Article 6 or Article 7 of this Ordinance shall require issuance of either a Highlands Act waiver or an exception, as provided in this subsection. Highlands Act waivers may be issued only by the NJDEP or the Highlands Council, as appropriate. Exceptions may be granted by the reviewing municipal Board or authority only where the review standards of this subsection have been satisfied.

§ 10.3.1 Highlands Act Waiver Provisions

Highlands Act waivers may be issued only by the NJDEP or the Highlands Council in accordance with the respective rules and criteria established by each agency in accordance with the provisions of the Highlands Act and the Highlands Regional Master Plan. A Highlands Act waiver shall be required in the event of any application proposing the disturbance of a Highlands Resource, Resource Area or Special Protection Area in excess of, or not in compliance with, that authorized under the applicable provisions of Article 6 and Article 7 of this Ordinance. Highlands Act waivers shall also be required for any application proposing: a) use of net or conditional water availability in excess of that authorized by the Highlands Council; b) water deficit mitigation insufficient to comply with mitigation requirements of the Highlands Council pursuant to § 6.7.7 B.; or c) installation or expansion of a use or structure listed as a PCS at Appendix B or Appendix C (where not otherwise prohibited by use restrictions of § 5.2.3) in a manner inconsistent with all provisions and conditions of approval of § 6.9.3. The issuance of a Highlands Act Waiver shall in no case be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

§ 10.3.2 Municipal Exception Provisions

- A. For applications other than those cited at § 10.3.1, above, the reviewing Board or other authority may grant exceptions from the strict application of the provisions of Article 6 and Article 7 of this Ordinance only where the applicant demonstrates and the reviewing entity finds that:
 1. The deviation is unavoidable and represents the minimum feasible under the particular circumstances surrounding the project proposal, and the grant of relief is reasonable, necessary and supports the general purpose and intent of the applicable provisions; or
 2. The literal enforcement of the provision(s) of the ordinance at issue is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- B. The approval of an exception must be accompanied by a detailed justification provided in writing, including at a minimum an explanation of how and to what extent the following conditions are addressed:
 1. The exception addresses A.1 or A.2 above;

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2. The exception provides relief only to the minimum extent necessary;
3. Other environmental features are not damaged in the process of protecting the regulated resources;
and
4. No alternative exists that will allow for at least a minimum practical use of the property (if applicable).

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ARTICLE 11. ENFORCEMENT, VIOLATIONS, PENALTIES

§ 11.1 ENFORCEMENT

Enforcement of the provisions of this Ordinance shall be the responsibility of the Township Zoning Officer, Engineer, Health Department, Construction Code Official and any other officer or entity designated by the Township Administrator, Manager, or Governing Body, as applicable. Enforcement shall occur in the case of any activity, improvement, or development project that violates any provision of this Ordinance, whether or not subject to a permitting or approval process pursuant to this Ordinance, or the underlying municipal land use ordinances.

§ 11.2 INSPECTIONS

- A. ***Site Inspections.*** The Township Engineer is authorized to and shall periodically inspect all project sites for compliance with development approvals pursuant to this Ordinance. The Inspector shall in addition:
1. Verify of baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation.
 2. Sequence compliance inspections to ensure the protection of on-site and off-site resources, achievement of site construction and environmental impact requirements, placement of conservation easement monuments, etc.
 3. Verify “as built” conditions to ensure compliance with all approvals, conservation easements, deed restrictions or other required means of resource preservation.

§ 11.3 ADMINISTRATIVE COMPLIANCE

The Township Zoning Officer shall be authorized to issue a stop-work order, revoke building permits, refuse to approve further work, or deny certificates of occupancy or approval, and to impose mandatory remedial and corrective measures including full restoration of any resources that are improperly disturbed.

§ 11.4 PENALTIES

Civil and criminal penalties for violations of this Ordinance shall be as established in accordance with Section 54-37.2 Violations and Penalties, b. Penalties, of the Township Code.

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APPENDIX A. FOREST DETERMINATION

For purposes of this Ordinance, the determination of whether a wooded area constitutes a forest, shall rely upon the Highlands Council procedures set forth herein, as adapted from NJDEP Preservation Area Rules (at N.J.A.C. 7:38-3.9). These standards shall apply to the entirety of the Highlands Area whether inclusive solely of Preservation Area, Planning Area, or any combination of the two.

- A. The applicant shall identify on a site plan all forest in existence on the lot as of August 10, 2004 as well as those forest areas that have subsequently developed. An upland forest area shall be determined in accordance with the following method:
1. The limit of the forest shall be identified using aerial photographs obtained from the NJDEP, free of charge, at www.state.nj.us/dep/gis/; and
 2. If the aerial photograph contains areas of sporadic coverage that have not been identified as forest by the applicant, the applicant shall lay a one-half acre grid system over the photograph. A standard 142 square foot grid block shall be used, as provided by the NJDEP at its website. Any grid block containing 33 percent or greater forest cover shall be considered as forest, unless the applicant demonstrates otherwise using the procedure established in B., below.
 3. If the applicant has an approved forest management plan identifying forest on a site, the limits of the forest indicated in the plan may be submitted as an additional resource, but shall not be used in lieu of aerial photographs.
- B. Alternatively, a forest determination may be made based upon the size and density of trees on the subject property, in accordance with the following method:
1. Select two 25-foot by 25-foot plots in every acre of the site potentially containing a forest.
 - a) The plots shall be located in the portion of each acre having the highest density of trees as determined by a visual inspection.
 - b) If the tree size and density are very uniform over some or the entirety of the site, one plot may be selected in the area of uniformity. However, the point total from the one plot shall be doubled to determine the total point value for the sampled acre pursuant to B.5., below.
 2. In each plot, measure the diameter of each tree at four and one-half feet above ground (diameter at breast height, dbh).
 3. Score each tree as follows:

| <u>Diameter of Tree (dbh)</u> | <u>Points</u> |
|-------------------------------|---------------|
| 1 inch to 3 inches | 2 |
| Between 3 and 7 inches | 4 |
| 7 inches to 12 inches | 6 |
| Greater than 12 inches | 8 |
 4. Add together the scores for all of the trees in each plot.
 5. If the total score for both plots is equal to or greater than 16, the sampled acre is regulated as a forest. For example, if the two 25-foot by 25-foot plots contain a total of three trees which are two

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inches in diameter, two trees which are six inches in diameter, and one tree which is 15 inches in diameter, the score for the sampled area would be: $(3 \times 2) + (2 \times 4) + (1 \times 8) = 22$, and the sampled acre is considered a forest.

6. If a sampled acre is a forest, the applicant shall assume that a half-acre of ground surrounding all sides of the sampled acre is also forest except for the surrounding areas that are sampled by the applicant and score under 16. In that case, a sufficient number of plots in the surrounding area shall be sampled by the applicant to delineate the forest portion of the surrounding area.
 7. The applicant shall submit the results of field sampling data provided in B.1 through B.6 above. The outer perimeter of all sample plots shall be flagged in the field and their locations shown on a plan.
 8. For a newly planted or regenerating forest, an area shall be considered forest if there are 408 seedlings or saplings per sampled acre, that is, the total number of seedlings or saplings in the two sample plots is 12 or more. For the purposes of this section, a tree will be considered a seedling or sapling if it has a caliper (diameter) of less than one (1) inch.
 9. Agricultural and/or horticultural uses such as orchards, tree farms and nurseries are not considered forest under this section.
- C. The limit of the forest shall be the outermost edge of the canopy of the forest area identified in A. through B., above.

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APPENDIX B. MAJOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) or the Township to be Major Potential Contaminant Sources include those listed below.

1. Any facility containing radioactive materials and/or explosive devices.
2. Underground fuel and chemical storage and oil tanks regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.).
3. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
4. Automotive service center (repair & maintenance).
5. Dry cleaning processing facility.
6. Road salt storage facility.
7. Cemetery.
8. Highway maintenance yard.
9. Truck, bus, locomotive maintenance yard.
10. Site for storage and maintenance of heavy construction equipment and materials.
11. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.
12. Livestock operation containing 300 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] as defined by the NJ Department of Agriculture in its Criteria and Standards for Animal Waste Management, at NJAC 2:91.
13. Quarrying and/or mining facility.
14. Asphalt and/or concrete manufacturing facility.
15. Junkyard/auto recycling and scrap metal facility.
16. Residential or agricultural motor fuel in NJDEP exempted underground storage tanks (i.e., under 1,000 gallons).

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APPENDIX C. MINOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Minor Potential Contaminant Sources include those listed below.

1. Underground storage of hazardous substance or waste of less than 50 gallons.
2. Underground heating oil storage tank with a capacity of less than 2,000 gallons.
3. Sewage treatment facility regulated by a NJPDES permit granted under NJAC 7:14A.
4. Industrial waste line.
5. Septic system disposal field.
6. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
7. Stormwater retention-recharge basin on an industrial property receiving runoff from surfaces other than roof areas.
8. Dry well on an industrial property receiving runoff from surfaces other than roof areas.
9. Waste oil collection, storage and recycling facility.
10. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
11. Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
12. Livestock operation containing 8 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] or those receiving 142 or more tons of animal waste per year as defined by the NJ Department of Agriculture pursuant to its Criteria and Standards for Animal Waste Management, at NJAC 2:91.

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APPENDIX D. HIGHLANDS ACT PROVISIONS ON AGRICULTURE/HORTICULTURE

Provisions of the Highlands Act regarding agricultural and horticultural development apply only to such development in the Preservation Area where it results in specified increases in agricultural impervious cover, as provided at N.J.S.A. 13:20-29, below.

C.13:20-29 Agricultural, horticultural development, review required; enforcement.

31. a. (1) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by three percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local Soil Conservation District of a Farm Conservation Plan which shall be prepared and submitted by the owner or operator of the farm management unit. Upon approval of the Farm Conservation Plan by the local Soil Conservation District, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local Soil Conservation District shall transmit a copy of an approved Farm Conservation Plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(2) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by nine percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local Soil Conservation District of a resource management systems plan which shall be prepared and submitted by the owner or operator of the farm management unit.

Prior to the approval of a resource management systems plan by a local Soil Conservation District, a copy of the resource management systems plan shall be forwarded by the local Soil Conservation District to the Department of Environmental Protection for review and approval, with or without conditions, or denial within 60 days after receipt by the department. Upon approval of the resource management systems plan by the local Soil Conservation District and the Department of Environmental Protection, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local Soil Conservation District shall transmit a copy of an approved resource management systems plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(3) A Farm Conservation Plan required pursuant to paragraph (1) of this subsection and a resource management systems plan required pursuant to paragraph (2) of this subsection shall be prepared in accordance with science-based standards, consistent with the goals and purposes of this act, which standards shall be established by the State Board of Agriculture and the Department of Agriculture, in consultation with the Department of Environmental Protection, the State Agriculture Development Committee, Rutgers Cooperative Extension, and the Natural Resources Conservation Service in the United States Department of Agriculture. Within 270 days after the date of enactment of this act, the State Department of Agriculture, in consultation with the Department of Environmental Protection, shall develop and adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), these standards and any other rules and regulations necessary to implement this section.

b. (1) If any person violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a Farm Conservation Plan or a resource management systems plan approved pursuant to subsection a. of this section, the Department of Agriculture or the local Soil Conservation District may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent the violation or violations and the court may proceed in a summary manner.

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(2) (a) Any person who violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a Farm Conservation Plan or a resource management systems plan approved pursuant to subsection a. of this section shall be liable to a civil administrative penalty of up to \$5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. No assessment shall be levied pursuant to this subsection until after the party has been notified by certified mail or personal service and provided an opportunity for a hearing.

(b) Any amount assessed under this subsection shall fall within a range established in a penalty schedule adopted by the Department of Agriculture pursuant to the "Administrative Procedure Act," which shall take into account the seriousness and duration of the violation and whether the violation involves the failure to prepare or to implement a Farm Conservation Plan or resource management systems plan. The schedule shall also provide for an enhanced penalty if the violation causes an impairment to water quality. Any civil administrative penalty assessed under this subsection may be compromised by the Secretary of Agriculture upon the posting of a performance bond by the violator, or upon such terms and conditions as the secretary may establish by regulation.

(c) Any person who fails to pay a civil administrative penalty in full pursuant to this subsection shall be subject, upon order of a court, to a civil penalty of up to \$5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. Any such civil penalty imposed may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this subsection.

(d) All penalties collected pursuant to this subsection shall either be used, as determined by the council, by the State Agriculture Development Committee for the preservation of farmland in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

c. Nothing in this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan shall be construed to alter or compromise the goals, purposes, policies, and provisions of, or lessen the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto.

d. The provisions of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

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APPENDIX E. NJDA HIGHLANDS AGRICULTURAL REGULATIONS

Provided herein for reference, pertinent provisions of N.J.A.C. 2:92, "Agricultural Development in the Highlands," regarding the development and implementation of Farm Conservation Plans and Resource Management System Plans.

§ 2:92-3.1 Farm Conservation Plan requirements

(a) Agricultural or horticultural development that results, individually or cumulatively, in at least three percent but less than nine percent increase in new agricultural impervious cover to the total land area of the Farm Management Unit since enactment of the Highlands Act (August 10, 2004) requires the development and implementation of a Farm Conservation Plan approved in accordance with this section.

1. Prior to any development activity, the owner or operator of a farm management unit or his agent shall develop a farm conservation plan with the assistance of the NRCS, TSP or an appropriate agent in conformance with Sections III and IV of the June 1, 2005 NRCS NJ-FOTG, as amended and supplemented, which is hereby adopted and incorporated by reference.

i. Copies of the NJ-FOTG are available from the NRCS Field Offices and the State Office at 220 Davidson Ave, 4th Floor, Somerset, NJ 08873.

ii. An electronic copy of the NJ-FOTG is available at <http://www.nrcs.usda.gov/technical/efotg/>.

iii. A copy of this document is on file in the NJDA office of the Director, Division of Agricultural and Natural Resources, P.O. Box 330, Trenton, NJ 08625.

2. The following shall be contained in the Farm Conservation Plan submitted for approval:

i. The name, address, block(s) and lot(s) of the operation and the name and telephone number of the emergency contact;

ii. The owner or operator's name, signature and date;

iii. A soil map;

iv. An aerial photograph or diagram of the field;

v. Identification of soil, water and animal resources, specifically, threatened and endangered species;

vi. A list of conservation practices to be implemented;

vii. The location and schedule for applying new practices;

viii. Records of plan implementation activities;

ix. A plan for operation and maintenance; and

x. Any other site-specific information necessary for plan certification.

3. The Farm Conservation Plan shall be reviewed, and if appropriate, approved by the local Soil Conservation District. Plans developed in consultation with entities other than the NRCS or TSP must be reviewed by NRCS for approval prior to submission to the local Soil Conservation District for review.

4. The local Soil Conservation District shall transmit a copy of the approved plan to the State Soil Conservation Committee. If any part of the Farm Management Unit is preserved under any farmland

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preservation program, the local Soil Conservation District shall also transmit a copy of the plan to the State Agriculture Development Committee.

5. The local Soil Conservation District shall approve the Farm Conservation Plan if it finds that the plan meets the NJ-FOTG Quality Criteria (Section III) and Practice Standards (Section IV) for soil, water and animal resource concerns, specifically threatened and endangered species.

6. The Farm Conservation Plan shall be executed in accordance with the implementation schedule contained in the approved plan.

7. Anyone aggrieved by a decision of the Soil Conservation District shall have an opportunity to appeal in accordance with 2:90-1.6.

8. Anyone who is aggrieved by the determination made in accordance with (a)7 above shall, upon written request transmitted to the Department within 20 days of that determination, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, 1:1.

i. Requests for hearings shall be sent to the Director, Division of Agriculture and Natural Resources, N.J. Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

§ 2:92-4.1 Resource Management System Plan requirements

(a) Agricultural or horticultural development that results, individually or cumulatively, in at least nine percent or more of new agricultural impervious cover to the total land area of the Farm Management Unit since enactment of the Highlands Act (August 10, 2004) requires the development and implementation of a Resource Management System Plan in accordance with this section.

1. Prior to any development activity, the owner or operator of a farm management unit or his agent shall develop a Resource Management System Plan with the assistance of the NRCS, TSP or appropriate agent in conformance with the June 1, 2005 NRCS NJ-FOTG, as amended and supplemented, which is hereby adopted and incorporated by reference.

i. Copies of the NJ-FOTG are available from the NRCS Field Offices and the State Office at 220 Davidson Ave, 4th Floor, Somerset, NJ 08873.

ii. An electronic copy of the NJ-FOTG is available at <http://www.nrcs.usda.gov/technical/efotg/>.

iii. A copy of this document is on file in the NJDA office of the Director, Division of Agricultural and Natural Resources, P.O. Box 330, Trenton, NJ 08625.

2. The following shall be contained in the RMS plan submitted for approval:

i. The name, address, block(s) and lot(s) of the operation and the name and telephone number of the emergency contact;

ii. The owner or operator's name, signature and date;

iii. A soil map;

iv. An aerial photograph or diagram of the field;

v. Identification of soil, water, air, plant and animal resources including endangered and threatened species;

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- vi. A list of conservation practices to be implemented;
 - vii. The location and schedule for applying new practices;
 - viii. Records of plan implementation activities;
 - ix. A plan for operation and maintenance; and
 - x. Any other site-specific information necessary for plan certification.
3. Upon receipt and prior to approval, the local Soil Conservation District will transmit a copy of the Resource Management System Plan to the DEP, who must review and approve it with or without conditions or deny it within 60 days of receipt.
 4. The Resource Management System Plan shall be reviewed, and if appropriate, approved by the local Soil Conservation District. Plans developed by entities other than the NRCS or TSP must be reviewed by NRCS for approval prior to submission to the local Soil Conservation District for review.
 5. The local Soil Conservation District shall transmit a copy of the approved plan to the State Soil Conservation Committee. If any part of the Farm Management Unit is preserved under any farmland preservation program, the local Soil Conservation District shall also transmit a copy of the plan to the State Agriculture Development Committee.
 6. The local Soil Conservation District shall approve the RMS plan if it finds that it meets the NJFOTG Quality Criteria and Standards for soil, water, air, plants and animal resources.
 7. The Resource Management System Plan shall be executed in accordance with the implementation schedule contained in the approved plan.
 8. Anyone aggrieved by a decision of the local Soil Conservation District shall have an opportunity to appeal in accordance with [2:90-1.6](#).
 9. Anyone who is aggrieved by the determination made in accordance with (a)8 above shall, upon written request transmitted to the Department within 20 days of the determination, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, [1:1](#).
 - i. Requests for hearings shall be sent to Director, Division of Agriculture and Natural Resources, N.J. Department of Agriculture, PO Box 330, Trenton, New Jersey 08362-0330.

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APPENDIX F. SANITARY SEWAGE VOLUMES BY FACILITY

The following table from N.J.A.C. 7:9A-7.4 is for use in calculating 300 gallon-per-day septic system equivalents by facility type, pursuant to § 5.3.5 B of this Ordinance.

The criteria listed herein are minimum standards for average facilities of the categories listed. In cases where a facility does not fall within any of the categories, the administrative authority may approve the use of other documented criteria, such as actual water data for the facility or other similar facilities, provided that the value used for design is at least 50 percent greater than the average daily volume of sewage.

| Type of Establishment | Method of Estimation (gallon per user or gallon per unit per day) |
|--------------------------------------|--|
| 1. Airport | 5 gal/passenger |
| 2. Assembly Hall | 3 gal/seat/day |
| 3. Auto Service Station | 10 gal/car served |
| 4. Bar | 5 gal/patron |
| 5. Bathhouse with shower | 25 gal/person |
| without shower | 10 gal/person |
| 6. Beach Club | 25 gal/person |
| 7. Beauty parlors and salons | 120 gal/day/sink |
| 8. Boarding House, Meals | 75 gal/guest(2) |
| | 15 gal/non-resident boarder |
| 9. Bowling Alley, no food | 125 gal/lane/day |
| with food, add | 5 gal/patron |
| 10. Bus Stop Rest Area | 5 gal/passenger |
| 11. Cafeteria | 5 gal/customer |
| 12. Camp, Cottage (barracks type) | 65 gal/person |
| 13. Camp, Day, no meals | 20 gal/person |
| 14. Camp, Resort | 100 gal/site/day(2) |
| 15. Camp, Trailer | 100 gal/site/day(2) |
| with toilets, add | 10 gal/person/day |
| 16. Church, with or without kitchen | 3 gal/seat/day |
| 17. Cocktail Lounge | 5 gal/customer |
| 18. Coffee Shop | 5 gal/customer |
| 19. Comfort Station/Picnic Grounds | |
| with toilets | 10 gal/person |
| with toilets and showers | 15 gal/person |
| 20. Cottages | 100 gal/person(2) (minimum 350 gal/dwelling unit/day) |
| 21. Country Club | 60 gal/member/day 25 gal/non-member |
| 22. Dining Hall | 5 gal/customer |
| 23. Dormitory, Bunkhouse | 40 gal/bed/day |
| 24. Factory/Industrial Building | 15 gal/employee per eight hour shift |
| with showers, add | 15 gal/employee per eight hour shift |
| 25. Hospital, Medical | 250 gal/bed/day |
| 26. Hospital, Mental | 150 gal/bed/day |
| 27. Hotels | 130 gal/room/day |
| 28. Institution, Other than hospital | 150 gal/bed/day |

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| Type of Establishment | Method of Estimation (gallon per user or gallon per unit per day) |
|-------------------------------------|--|
| 29. Laundry, Self-service | 50 gal/wash |
| 30. Motel | 130 gal/room/day |
| 31. Nursing/Rest Home | 150 gal/bed/day |
| 32. Office Buildings | 15 gal/employee per eight hour shift or 0.125 gal/square ft., whichever is greatest |
| 33. Prison | 150 gal/inmate/day |
| 34. Restaurant | |
| sanitary wastes only | 5 gal/patron only |
| kitchen waste, add | 5 gal/patron |
| 35. Rooming House, no meals | 65 gal/bed/day |
| 36. School, Boarding | 100 gal/student/day |
| 37. School, Day | |
| No cafeteria or showers | 10 gal/student/day |
| Cafeteria only | 15 gal/student/day |
| Cafeteria and showers | 20 gal/student/day |
| Cafeteria, showers and laboratories | 25 gal/student/day |
| 38. Shopping Center | 0.125 gal/square ft./day(1) |
| 39. Stadium | 3 gal/seat/day |
| 40. Store | 0.125 gal/square ft./day(1) |
| 41. Swimming Pool | 10 gal/person |
| 42. Theater, Indoor | 3 gal/seat/day |
| 43. Theater, Outdoor | 10 gal/parking space |
| 44. Visitor Center | 5 gal/visitor |

- (1) Volume of sanitary sewage for employees included within method of estimation indicated.
(2) If laundry wastes are anticipated, increase the estimated flow by 50 percent.

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APPENDIX G. EXHIBITS

- Exhibit 1. Township Highlands Area, Highlands Zones and Sub-Zones
- Exhibit 2. Forest Resource Area, Total Forest Area
- Exhibit 3. Highlands Open Waters, Lake Management Areas
- Exhibit 4. Riparian Area
- Exhibit 5. Steep Slope Protection Area
- Exhibit 6. Critical Wildlife Habitat, Significant Natural Areas, Vernal Pools
- Exhibit 7. Carbonate Rock Area, Prime Ground Water Recharge Area, Wellhead Protection Areas
- Exhibit 8. Highlands Special Environmental Zone
- Exhibit 9. Highlands Historic, Cultural and Archaeological Resources [*if applicable*], Highlands Scenic Resources
- Exhibit 10. Net Water Availability by HUC14 Subwatershed, Highlands Domestic Sewerage Facilities, Public Community Water Systems
- Exhibit 11. [*Reserved*]
- Exhibit 12. [*Reserved*]

**TOWNSHIP OF ROCKAWAY
MORRIS COUNTY, NEW JERSEY**

Ordinance No. 2013-__

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE
TOWNSHIP OF ROCKAWAY TO UPDATE SUBMISSION REQUIREMENTS FOR
APPLICATIONS FOR DEVELOPMENT

WHEREAS, the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.) was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring the natural resources of the New Jersey Highlands Region, in particular the water resources, which provide drinking water to over 5 million New Jersey residents; and

WHEREAS, the Highlands Act created the Highlands Water Protection and Planning Council (the “Highlands Council”) and charged it with crafting a comprehensive master plan for the New Jersey Highlands Region; and

WHEREAS, the Highlands Regional Master Plan was adopted by the Highlands Council through the adoption of Resolution 2008-27 on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, Resolution 2008-27 included the adoption of Highlands Regional Master Plan as well as the adoption of various technical reports and guidelines that accompanied the Plan including the 2008 Plan Conformance Guidelines; and

WHEREAS, the Plan Conformance Guidelines provide an overview of the Highlands Act’s bifurcated system for municipal conformance with the Highlands Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations,

as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Plan Conformance Guidelines detail the requirements for Plan Conformance including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources; and

WHEREAS, the Plan Conformance Guidelines require conforming municipalities to adopt Initial Revisions as a first step of Plan Conformance; the initial revisions are revisions of the existing master plan and development regulations which are deemed necessary by the Highlands Council for prompt enactment by a petitioning local government in order to ensure the protection and enhancement of the resources of the Highlands Region; and

WHEREAS, the Plan Conformance Guidelines include the adoption of a Development Application Checklist Ordinance as an Initial Revision in order to ensure that any Application for Development not be deemed complete until such time as certain documents have been submitted by the Applicant and to ensure that Applications for Development are consistent or revised to be consistent with the Regional Master Plan; and

WHEREAS, the Township of Rockaway is located in the Highlands Region with lands lying within both the Preservation Area and the Planning Area, as defined by section 7 of the Highlands Act; and

WHEREAS, the Governing Body of the Township of Rockaway has, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to Township lands located within both the Planning Area portion and the Preservation Area portion of the Highlands Region; and

WHEREAS, the Petition filed with the Highlands Council contains proposed amendments to the municipal planning program, including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources located within the Township; and

WHEREAS, the Governing Body finds that the proposed changes to the municipal planning program are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community; and

WHEREAS, the Governing Body recognizes that the formal municipal adoption of each component of the revised planning program must take place, in sequential order in accordance with all statutory requirements, involving public hearings and deliberation by the Environmental Commission, Planning Board, and Governing Body; a process that will require an additional undetermined period of time; and

WHEREAS, the Governing Body is aware that lands within the Planning Area are not regulated by the New Jersey Department of Environmental Protection's Highlands Rules (N.J.A.C. 7:38-1 et seq.) and, with the exception of Wastewater Management Plans and Water Allocation Permits, would remain without the full suite of Highlands Regional Master Plan protections during the interim period between the date of filing of the Petition for Plan Conformance and the adoption of ordinances and regulations that will provide such protections; and

WHEREAS, an immediate level of protection to the resources located within the Highlands Region by adoption of revised submission requirements pertinent to Applications for Development therein is required by the Plan Conformance Guidelines; and

WHEREAS, the adoption of revised submission requirements pertinent to Applications for Development therein is essential to ensuring that Applicants achieve compliance with the standards and protections required under the Highland Regional Master Plan despite the interim status of the municipal Plan Conformance ordinances and regulations, this interim period not constituting an appropriate instance in which municipal approvals based upon existing municipal regulatory requirements, can appropriately be issued conditioned upon subsequent approval by the Highlands Council or the New Jersey Department of Environmental Protection (NJDEP), as may occur under usual circumstances; and

WHEREAS, the Governing Body finds that the adoption of such submission requirements are important not only to provide such immediate resource protections, but to ensure the proper management of Applications for Development involving lands within the Highlands Area of the municipality; and

WHEREAS, the Highland Council deems the immediate protections ascribed by this Ordinance to lands in the Planning Area and the Preservation Area of the municipality, eligible for application of the provisions of the Highlands Act at N.J.S.A. 13:20-22 and N.J.S.A. 13:20-24 regarding legal representation to municipalities filing for Plan Conformance and regarding the strong presumption of validity and extraordinary deference afforded to such ordinances;

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Rockaway that the Land Use Ordinance of the Township of Rockaway be and is hereby amended to incorporate the following provisions:

SECTION 1. APPLICABILITY

This Ordinance shall apply to any Application for Development involving lands located within (or partially within) the Township Highlands Area (as illustrated in Exhibit 1, "Township of Rockaway Highlands Area") that seeks approval of a site plan, subdivision, or change in use, where approval of such Application would: a) result in the ultimate disturbance of one (1) acre or more of land; b) produce a cumulative impervious surface area

of one-quarter (1/4) acre, or more; c) in the case of residential development, create three or more dwelling units; or d) introduce or expand on any of the following land uses/facilities:

- A. Landfills;
- B. Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
- C. Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;
- D. Industrial treatment facility lagoons; or
- E. Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of this Ordinance, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined at Section 4 below.

For purposes of this Ordinance, the phrases “Application for Development,” “Highlands Area,” “residential development,” “ultimate disturbance,” and “cumulative impervious surface area” shall be defined as provided at Section 4 below.

SECTION 2. ADMINISTRATIVE COMPLETENESS

A. **CONSISTENCY DETERMINATIONS REQUIRED.** No Application for Development included in Section 1 above, shall be deemed complete or considered for review by the applicable Township land use Board until and unless the Applicant has obtained and provided a copy of:

1. A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan; or
2. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a certification, as detailed in Section 2.B below, by the Applicant’s professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan.

B. **FINDINGS OF INCONSISTENCY.** Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan, no such application shall be deemed complete or considered for review by the applicable Township land use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant’s plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the application has been revised to achieve consistency with the Highlands Regional Master Plan and specifically describing the revisions made to achieve such consistency.

C. CHECKLIST WAIVER. The Township may issue a waiver from the provisions of this Section where it can be established by the Applicant and can be verified by the designated representative(s) of the Township that:

1. The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act (see Section 3.B, below), but eligibility for an exemption has been sufficiently established by the Applicant; or
2. The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

D. HIGHLANDS COUNCIL CALL-UP. All municipal waivers or findings of application completeness issued pursuant to this Section shall be issued in writing, inclusive of a statement indicating the rationale for the determination. All such determinations shall be subject to Highlands Council call-up review, and shall include conditions requiring same consistent with this paragraph. The municipality shall within five (5) calendar days of issuance of all such determinations, provide a copy of the decision to the Applicant and to the Highlands Council. The Highlands Council call-up review period shall expire 15 calendar days following its receipt of same. Upon determining to exercise this authority for call-up review, the Highlands Council shall transmit notice to the Applicant and the municipality. Absent any such notification from the Highlands Council within that timeframe, the application shall be considered complete, with the date of the waiver or finding of application completeness to be as of the date of first issuance by the municipality.

SECTION 3. EXCLUSIONS AND EXEMPTIONS

A. EXCLUSIONS. The following specific improvements and related applications shall be excluded from the provisions of this Ordinance:

1. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
2. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is

necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.

3. Any Agricultural or Horticultural Use or Development that would not result in either:
 - a. An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 4, below); or
 - b. Construction of three (3) or more residential dwelling units (including accessory dwelling units) served by individual on-site septic system(s).

B. EXEMPTIONS. Any activity, improvement or development project listed and demonstrated to constitute a Highlands Act exemption shall be exempt from the provisions of this Ordinance. Formal demonstration of a Highlands Act exemption for an Application for Development involving lands located (or partially located) in the Highlands Area shall consist of the following:

1. *State Agency Determination.* State Agency Determinations shall include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal, in either case, indicating that the proposal qualifies as a Highlands Act Exemption.

SECTION 4. DEFINITIONS

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.

Agricultural or Horticultural Development – means construction for the purposes of supporting common farmsite activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Agricultural or Horticultural Use – means the use of land for common farmsite activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other

related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Agricultural Impervious Cover – means agricultural or horticultural buildings, structures or facilities with or without flooring, residential buildings and paved areas, but not meaning temporary coverings.

Applicant – means a developer submitting an Application for Development.

Application for Development – means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

Disturbance – means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Disturbance, Ultimate – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Farm Management Unit – means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

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 Applicability Determination (HAD) – means the determination made by the NJDEP of whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – means that portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands Regional Master Plan.

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

Impervious Surface – means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Impervious Surfaces, Cumulative – means the total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Major Potential Contaminant Sources (PCS) – means land uses and activities determined by the Highlands Council to pose a major risk of ground water contamination (see Appendix A).

Minor Potential Contaminant Sources (PCS) – means land uses and activities determined by the Highlands Council to pose a minor risk of ground water contamination (see Appendix B).

Municipal Land Use Law (MLUL) – means the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

NJDEP – New Jersey Department of Environmental Protection

NJDEP Preservation Area Rules – means the regulations established by the NJDEP to implement requirements of the Highlands Act, titled “Highlands Water Protection and Planning Act Rules,” and codified at N.J.A.C. 7:38-1 et seq.

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.

Public Community Well – means a well that provides water to a public water system serving at least 15 service connections used by year-round residents or regularly serving at least 25 year-round residents.

Public Non-Community Well – means a well that is not a public community well and that provides water to a public water system regularly serving at least 25 individuals for at least 60 days in any given calendar year.

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

Regional Master Plan (RMP) – means the Highlands Regional Master Plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

Solar Panel – means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar

collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq, as amended.)

Structure – means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

SECTION 5

If any portion, paragraph, clause, sentence or phrase of this Ordinance is determined to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions of this Ordinance.

SECTION 6

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

SECTION 7

This Ordinance shall take effect after final passage and publication in the manner prescribed by law.

APPENDIX A. MAJOR POTENTIAL CONTAMINANT SOURCES

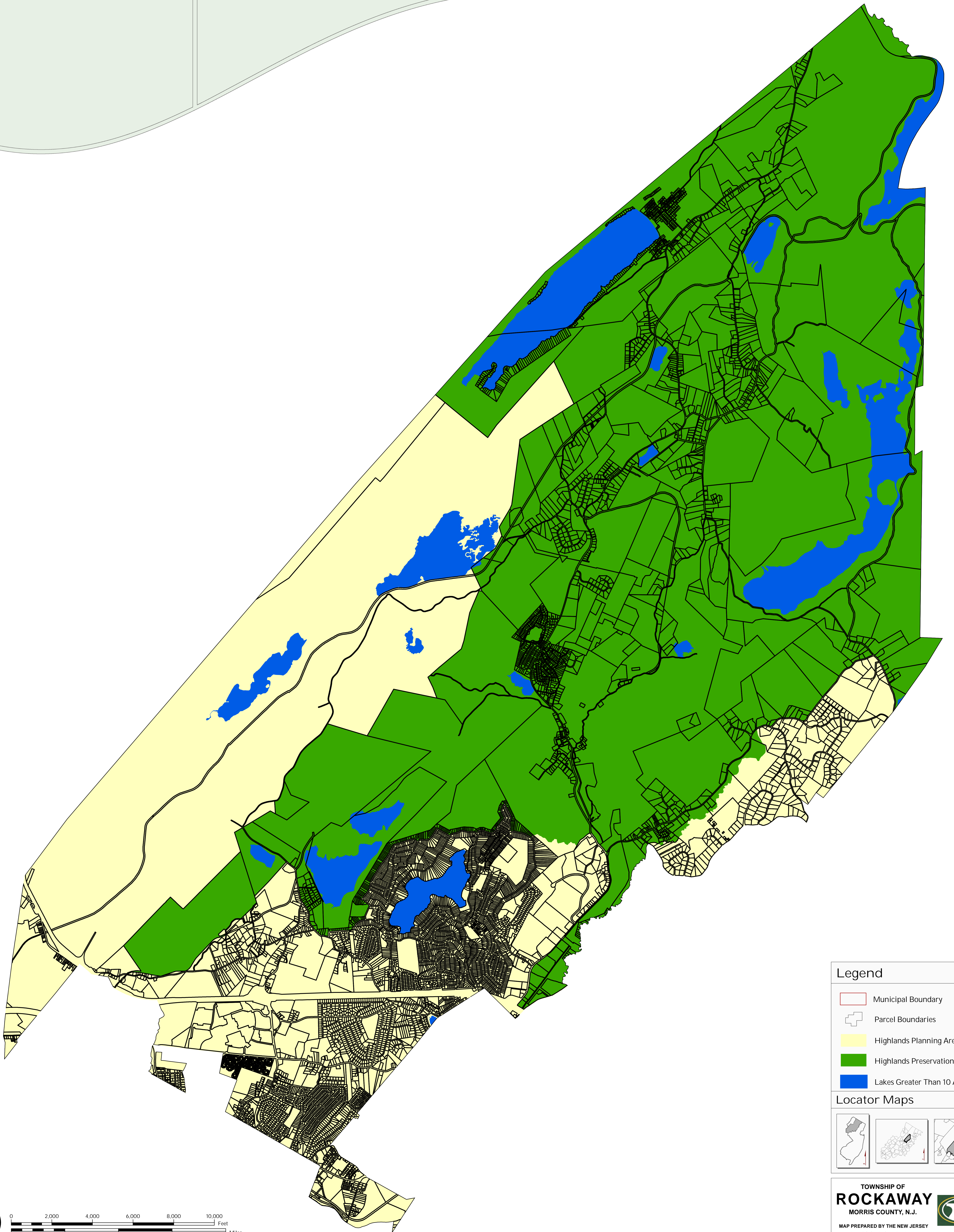
Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Major Potential Contaminant Sources include those listed below.

1. Underground fuel and chemical storage and oil tanks regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.).
2. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
3. Automotive service center (repair & maintenance).
4. Dry cleaning processing facility.
5. Road salt storage facility.
6. Cemetery.
7. Highway maintenance yard.
8. Truck, bus, locomotive maintenance yard.
9. Site for storage and maintenance of heavy construction equipment and materials.
10. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.
11. Livestock operation containing 300 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] as defined by the NJ Department of Agriculture in its Criteria and Standards for Animal Waste Management, at NJAC 2:91.
12. Quarrying and/or mining facility.
13. Asphalt and/or concrete manufacturing facility.
14. Junkyard/auto recycling and scrap metal facility.
15. Residential or agricultural motor fuel in NJDEP exempted underground storage tanks (i.e., under 1,000 gallons).

APPENDIX B. MINOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Minor Potential Contaminant Sources include the following:

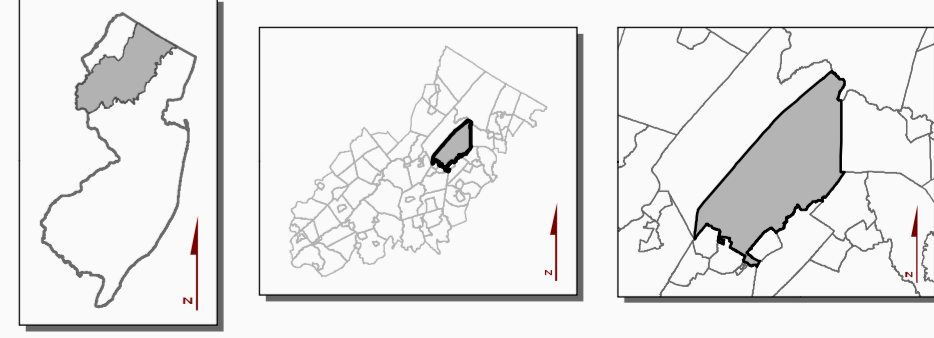
1. Underground storage of hazardous substance or waste of less than 50 gallons.
2. Underground heating oil storage tank with a capacity of less than 2,000 gallons.
3. Sewage treatment facility regulated by a NJPDES permit granted under NJAC 7:14A.
4. Industrial waste line.
5. Septic system disposal field.
6. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
7. Stormwater retention-recharge basin on an industrial property receiving runoff from surfaces other than roof areas.
8. Dry well on an industrial property receiving runoff from surfaces other than roof areas.
9. Waste oil collection, storage and recycling facility.
10. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
11. Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
12. Livestock operation containing 8 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] or those receiving 142 or more tons of animal waste per year as defined by the NJ Department of Agriculture pursuant to its Criteria and Standards for Animal Waste Management, at NJAC 2:91.




Legend

- Municipal Boundary
- Parcel Boundaries
- Highlands Planning Area
- Highlands Preservation Area
- Lakes Greater Than 10 Acres

Locator Maps



TOWNSHIP OF ROCKAWAY
MORRIS COUNTY, N.J.



MAP PREPARED BY THE NEW JERSEY
HIGHLANDS COUNCIL, JULY 29, 2013

