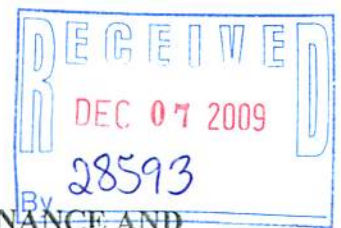


TOWNSHIP OF WASHINGTON
WARREN COUNTY, NEW JERSEY
RESOLUTION #R 2009-149



MODEL HIGHLANDS SEPTIC SYSTEM MAINTENANCE ORDINANCE AND
MODEL HIGHLANDS POTENTIAL CONTAMINATION SOURCE
MANAGEMENT ORDINANCE

WHEREAS, the New Jersey Legislature enacted the Highlands Water Protection and Planning Act (Highlands Act) in 2004 which established the Highlands Council, a regional planning entity, to develop, adopt and periodically revise a Regional Master Plan (“RMP”); and

WHEREAS, the Highlands Act mandates conformance with the RMP for any portion of a municipality and county located wholly or partially in the Preservation Area and provides an opportunity for municipalities within the Planning Area to voluntarily conform the RMP; and

WHEREAS, as part of plan conformance the Highlands Council is requiring that conforming municipalities revise their municipal master plan and development regulations as may be necessary to conform them with the goals, requirements, and provisions of the RMP; and

WHEREAS, the Highlands Council adopted the RMP on July 17, 2008; and

WHEREAS, on January 2, 2009, the Highlands Council notified municipalities that a Petition for Plan Conformance must be submitted to the Highlands Council on or before December 8, 2009 to comply with the requirement of the Highlands Act and such petition was to consist of seven “Modules”;and

WHEREAS, on August 4, 2009, more than one year after adoption of the RMP, the Highlands Council released instructions for completing the Highlands Regulation Module 6 as part of plan conformance which Module consists of three model ordinances including a Land Use Ordinance, a Septic System Maintenance Ordinance and a Potential Contaminant Source Management Ordinance to be included a conformance petition; and

WHEREAS, the Model ordinances previously released by the Highlands Council were not previously included in the RMP, had not been previously released for public comment nor have they been formally adopted by the Highlands Council prior to being sent to Highlands municipalities for inclusion in a conformance petition; and

WHEREAS, on September 23, 2009, the Highlands Council amended guidelines for completing Municipal Highlands Regulation Module 6; and

WHEREAS, the revised Highlands Module 6 guidelines continue to require that a conforming municipality will be required to adopt the Land Use Ordinance, Septic System Maintenance Ordinance and Potential Contaminant Source Management Ordinance as part of Full Plan Conformance; and

WHEREAS, with a little more than two months remaining before a municipality is required to submit a conformance petition, the Highlands Council has still not released for public review and comment the final details of what the requirements will be for a Septic System Maintenance

Ordinance or Potential Contaminant Source Management ordinance; and

WHEREAS, the previously released draft Model Highlands Septic System Maintenance Ordinance prohibited the owner or occupant of any property with an existing septic system for using or operating the septic system unless they obtain a license or operate the system every one to three years; and

WHEREAS, the previously released draft Model Highlands Septic System Maintenance Ordinance also required “any person, partnership, firm or corporation who installs, alters, repairs, inspects, constructs, services, or pumps out all or a portion of an individual sewage disposal” to obtain a Septic System Service Provider license each year; and

WHEREAS, the previously released draft Model Highlands Septic System Maintenance Ordinance obligated a conforming municipality to license and inspect existing septic systems and service providers; and

WHEREAS, the previously released draft Model Highlands Potential Contaminant Source Management Ordinance required certain owners of property to prepare and implement an Operations & Contingency Plan for property that includes or proposes one or more of the following: above and below ground storage tanks, septic leaching field, sewer line, storm water conveyance line, dry well, stormwater retention recharge basin, livestock operation; and

WHEREAS, the previously released draft Model Highlands Potential Contaminant Source Management Ordinance obligated a conforming municipality to review and approve all Operations & Contingency Plans and conduct annual inspection of certain facilities; and

WHEREAS, neither the previously released draft Model Highlands Septic System Maintenance Ordinance nor the previously released draft Model Highlands Potential Contaminant Source Management Ordinance, nor any amendments thereto, have been adopted or the subject to any public hearings by the Highlands Council; and

WHEREAS, the previously released draft Model Highlands Septic System Maintenance Ordinance and previously released draft Model Highlands Potential Contaminant Source Management Ordinance will impose substantial administrative and financial burdens on conforming municipalities, and will create significant, and in many cases severe, financial hardships for existing homeowners and businesses in the Highlands Region during the present major economic recession in the United States, and in particular in the State of New Jersey; and

WHEREAS, the Highlands Council has still not provided municipalities with any information regarding the ultimate requirements, and associated costs, of the ordinances that will be required for Full Plan Conformance;

THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Washington, County of Warren, State of New Jersey, the governing body strongly objects to the Septic System Maintenance and Contaminant Source Management Ordinances on the grounds that they are both administratively impractical and economically imprudent; and

BE IT FURTHER RESOLVED, that this municipality does not have the staff or resources necessary to effectively administer such program, and any program that regulates the licensing and inspection of septic systems, service providers and/or potential contaminant sources should be administered directly by the Highlands Council and not imposed as an unfunded State mandate on the local Board of Health; and

BE IT FURTHER RESOLVED, that this governing body further objects to the potential that a conforming municipality would have to adopt an ordinance before it has been formally adopted by the Highlands Council; and

BE IT FURTHER RESOLVED, that this governing body strongly objects to the forced imposition of having to file a petition to conform to the RMP before the Highlands Council has released and formally adopted all of the requirements for conforming municipalities prior to the deadline established for filing a conformance petition; and

BE IT FURTHER RESOLVED, that this governing body calls upon the Highlands Council to rescind the requirements that the above ordinances be included as a requirement for either Basic or Full Plan Conformance; and

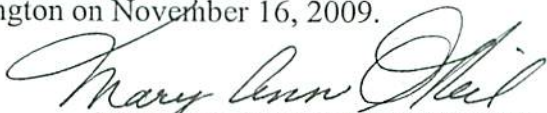
BE IT FURTHER RESOLVED, that this governing body calls upon the Highlands Council to follow the administrative rule making process in formally adopting all rules and standards contained in any model ordinances before mandating that conforming municipalities adopt same; providing an opportunity for adequate public notice and public comment; and to perform an economic analysis, prior to the adoption of such model ordinances, to determine the administrative costs and economic burden that will be imposed as a result of the adoption of the ordinance; and

BE IT FURTHER RESOLVED, that a true copy of this resolution as adopted by this governing body shall be forwarded by the Municipal Clerk to Governor Jon S. Corzine, to the New Jersey Highlands Council, to the legislators representing this municipality, in the New Jersey State Legislature, to the New Jersey State League of Municipalities and to all municipalities located in the New Jersey Highlands Preservation and Planning Areas.

Dated: November 16, 2009

Certification:

I, Mary Ann O'Neil, Clerk of the Township of Washington, County of Warren, State of New Jersey, do hereby certify that the foregoing Resolution is a true and exact copy of a Resolution adopted by the Township Committee of the Township of Washington on November 16, 2009.


Mary Ann O'Neil RMC/CMC/MMC
Township Clerk