

2016 MASTER PLAN REEXAMINATION REPORT

BOROUGH OF LEBANON
Hunterdon County, New Jersey



**BOROUGH OF LEBANON PLANNING/BOARD OF ADJUSTMENT
BOARD**

MAY 2016

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

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License No. 6114

**BOROUGH OF LEBANON
2016 MASTER PLAN REEXAMINATION REPORT**

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ADOPTED JULY 12, 2016 VIA RESOLUTION NO. 05-2016

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 Borough of Lebanon Master Plan was adopted by the Planning Board pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on December 1973, last revised 1982. The Board subsequently adopted reexaminations of the Master Plan in February 1991, February 2008 and January 2013.

Since the time of adoption of the last amendment to the Master Plan, the assumptions, policies, and objectives upon which the Master Plan is based have changed by virtue of: a) 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; b) 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; 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 the affirmative decision of the Borough of Lebanon Governing Body to conform to the Highlands Regional Master Plan for

municipal lands located in the Planning Area, as set forth by Resolution #145-2009 adopted on November 12, 2009.

Accordingly, the Planning Board has reexamined the Borough 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 Borough Master Plan and development regulations into conformance with the Highlands Regional Master Plan.

1. Major Land Development Problems & Objectives

The major problems and objectives relating to land development in the Borough at the time of the adoption of the last reexamination report which have changed, specifically as a result of the passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan, include the following:

- a. To utilize the current Environmental Resource Inventory (ERI) as a section of our plan.
- b. To investigate and implement development changes which would increase the ration of commercial ratables, consistent with the overall changes of the original Master Plan.

2. Extent of Reduction/Increase in Problems & Objectives

The extent to which each of the problems and objectives listed in item 1 above, have been reduced or have increased subsequent to the date of the last reexamination report, specifically as a result of passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan, is indicated below, in the same order provided at 1, above:

- a. The Borough retained Princeton Hydro to prepare a comprehensive ERI. The ERI contains detailed information, specific to the Borough. The Highlands Council has agreed that the Highlands ERI can be adopted as an addendum to the Borough's existing ERI.
- b. If the Borough decides to proceed with rezoning it would have to be cognizant of the Highlands Land Use Capability Zones and the limitations they may have for future development and/or redevelopment.

3. Significant Changes in Assumptions, Policies, Objectives

Since the reexamination of the Borough Master Plan in January 2013, the passage of the Highlands Act, 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 Borough 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 Borough of Lebanon Master Plan be adopted, including modifications to the underlying objectives, policies and standards, all as outlined in detail, in the “Highlands Planning Area Master Plan Element” approved by the Highlands Council as part of the Borough’s Petition for Plan Conformance (copy attached herewith).

In addition to the above, Lebanon Borough, like many other municipalities across New Jersey, has seen its office park along Route 22 transform from a desirable location to a ghost town. Office buildings that were once fully occupied and providing significant property taxes are now vacant, partially vacant or will soon be vacated. In the last decade the office market has changed dramatically. Evolving technologies allow employees to work from home. Increasing international competition has forced companies to downsize, shrinking their physical footprint to reduce overhead. The internal office layout has changed as well. Gone are the days of large corner offices. Instead, the new trend is shared or communal office spaces. Furthermore, there is an ongoing population shift from the suburban areas back to the urban areas like Hoboken, Jersey City and the like. Companies are following workers back to the urban areas and vacating their suburban locations. These changes, as well as other forces, have resulted in a glut of office space in Hunterdon County.

Due to the surplus of office space in the County, as well as the fact that one of the Borough’s office buildings is filled with mold, Lebanon recognizes that its corporate office park is slowly dying. In an effort to be proactive, the Borough believes that it could benefit from a Sustainable Economic Development Plan Element and a Highlands Center Designation. The Borough is interested in working with the Highlands Council to achieve Center Designation and prepare a Sustainable Economic Development Plan. A Sustainable Economic Development Plan Element would analyze both the office park and the greater Borough. The Element would allow the Borough to analyze alternative uses for the office park and create a specific plan of action.

A Highlands Center is an “area where development and redevelopment is planned and encouraged. Highlands Centers are intended to support balance in the Highlands Region by providing for

sustainable economic growth while protecting critical natural and cultural resources.”¹ The designation of a Highlands Center starts a process that identifies the development goals for the area, along with the desired level of development. Center planning is community-drive and flexible, tailor-made for the specific community.

The benefits of a Highlands Center Designation is that it provides access to planning grants and technical expertise. It also eliminates the underlying Land Use Capability Map Zones, but continues to protect the underlying resources.

The Borough believes that it could benefit from a Highlands Center Designation both as a whole and specifically as it applies to the existing office park. Lebanon exhibits many of the characteristics of a Center as it has a small, quaint Main Street, existing water and sewer, excellent access to Route 22 and Route 78 and has the potential for multiple redevelopment options.

Finally, it should be noted that the Borough has an interest in planning for scenic by-ways. This process was started a few years ago, but never fully implemented. Lebanon is bisected by both Route 22 and Route 78 and desires to maintain its small town character.

5. Specific Recommended Changes to Development Regulations

The Planning Board recommends that the specific changes, as detailed in the document titled “Borough of Lebanon Highlands Planning Area Land Use Ordinance,” approved by the Highlands Council as part of the Borough’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 Highlands Planning Area Element of the Master Plan. In addition, the Board recommends interim changes to the Borough Development Application checklist ordinance(s), effective until such time as the Highlands Planning 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 draft attached Ordinance entitled “An Ordinance Amending the Land Use Ordinance of the Borough of Lebanon to Update Submission Requirements for Applications for Development.”

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.).

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¹ <http://www.highlands.state.nj.us/njhighlands/planconformance/#11>



DRAFT AS APPROVED BY THE HIGHLANDS COUNCIL

Please Note: This document should be read in concert with the Final Consistency Review and Recommendations Report prepared by Highlands Council Staff for Lebanon Borough.

Prior to adoption: a) minor items noted within the document will be addressed, and finalized; and b) all instructional text will be removed.

Model Highlands Planning Area Element for Municipal Master Plans

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

**Final:
November 2010**

HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT

DRAFT MASTER PLAN SUPPLEMENT
LEBANON BOROUGH
HUNTERDON 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

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The Planning Board presented, discussed, and accepted public comment on this draft Master Plan supplement at duly-noticed public meetings of October 14 and October 28, 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 Highlands municipalities by the New Jersey Highlands Water Protection and Planning Council. Modifications required to tailor it for application to the Borough of Lebanon were provided by the individual indicated below.

PREPARED BY:

Name, Title

Professional License No. _____

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

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INTRODUCTION

The Borough of Lebanon 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 Borough 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 (445,000 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 Borough of Lebanon is located fully within the Planning Area. The municipality affirmatively seeks to align its land use planning program with the provisions of the RMP. This supplement to the Borough 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 Borough in accordance with RMP principles. 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

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requirements, these shall apply primarily (but not exclusively) to non-exempt land use activities. "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 Borough 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.

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HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

POLICIES, GOALS & OBJECTIVES

The Borough Highlands Environmental Resource Inventory (ERI) (prepared by Clarke Caton Hintz, and dated [REDACTED]) provides detailed information concerning the physical features, natural resources and specific characteristics of the Highlands Planning Area. The 2010 Highlands 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 Highlands ERI, a comprehensive compilation of text, charts and associated mapping, is incorporated by reference where applicable, in the Highlands Master Plan Element. The Borough's key environmental resources are also provided in the 2008 Environmental Resource Inventory, prepared by Princeton Hydro, LLC.

The municipality recognizes the unique value of the Highlands Planning Area and seeks to protect and enhance it, in keeping with the Highlands Act and the Highlands RMP. Accordingly, the overarching land use policy of the Borough 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 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 future land use and development of the Borough:

A. BOROUGH 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 Borough environment;
4. In keeping with Highlands Act Preservation Area goal #3 (N.J.S.A. 13:20-10b(3)), to protect the scenic resources of the Borough, and to contribute to the protection of the scenic character of Hunterdon County, of which the Borough is an integral part;
5. To preserve farmland, historic sites, and other historic resources;
6. To promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities;
7. To preserve outdoor recreation opportunities on publicly owned land;
8. To promote conservation of water resources;

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9. To promote Brownfield remediation and redevelopment, where applicable;
10. 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 Borough environment from the individual and cumulative adverse impacts thereof; and
11. To the extent applicable, to promote local transportation opportunities that are consistent with smart growth strategies and principles.

B. GENERAL PURPOSES OF ZONING

The afore-listed goals for the use and development of lands within the Borough 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 Borough in exercising its authority to engage in land use planning and regulation pertinent to the Highlands Planning Area.

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

- a. To guide the appropriate use or development of all lands under Borough 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 Borough 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

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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 Borough 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;
- 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.

C. 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 OFP, 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

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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.

1. A waiver may be issued or authorized by the Highlands Council on a case-by-case basis from the requirements of the RMP or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the RMP: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in accordance with a Highlands Redevelopment Area Designation (see Land Use Plan, Section F); or 3) in order to avoid the taking of property without just compensation. Any waiver issued shall be conditioned upon a determination that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.

2. Variances for density of development (i.e., permitted number of dwelling units per acre) in excess of that permitted by a Land Use Ordinance that has been approved by the Highlands Council for conformance with the RMP, or for any use, bulk standard, or other requirement of such Ordinance that would result in an increase in the permitted use of septic system yield shall be authorized by the Highlands Council, only where: 1) water availability, water supply utility capacities and either wastewater utility capacities or septic system yield are in excess of development yield based on municipal zoning limitations and moreover, are sufficient to support the development proposal; 2) Highlands resources will not be adversely affected by virtue of the proposed increase in density or use of septic system yield; and 3) the applicant secures Highlands Development Credits (HDCs) in sufficient quantity to meet criteria to be set forth and established by the Highlands Council. This provision shall not apply in the case of a variance requested pursuant to a specific development or land use activity that is exempt from the Highlands Act.

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LAND USE PLAN

A. HIGHLANDS ZONES AND SUB-ZONES

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

The Borough includes all the Highlands Zones and Sub-Zones listed above, with the exception of the Wildlife Management Sub-Zone and the Lake Community Sub-Zone. The applicable Highlands Zones and Sub-Zones are described below. The map of these Zones may be found in Exhibit A (“Borough of Lebanon Highlands Planning Area”). To the full extent of their limits within the municipality, the Highlands Planning Area and all applicable Zones and Sub-Zones 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.

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.
2. **Conservation Zone.** The Conservation Zone consists of areas with significant agricultural lands interspersed with associated woodlands and environmental features that should be preserved when possible. The Conservation Zone is intended primarily for agricultural use and development, including ancillary and supporting uses and activities. Non-agricultural development activities will be limited in area and intensity due to infrastructure constraints and resource protection goals. Where non-agricultural development does occur it must be designed to ensure compatibility with agricultural uses.
 - a. **Conservation Zone–Environmentally Constrained Sub-Zone.** The Conservation Zone–Environmentally Constrained Sub-Zone consists of significant environmental features within the Conservation Zone that should be preserved and protected from non-agricultural development. Development activities will be limited and subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

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3. **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.
 - a. **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.

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); and b) the density and intensity requirements set forth in the section that follows (see Section C, Density and Intensity of Development).

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

1. **Agricultural Resource Area.**
 - a. Upon adoption of the appropriate regulatory provisions, permitted principal uses for any lands defined and delineated as part of the “Agricultural Resource Area” (as defined and delineated in the Agriculture Retention/Farmland Preservation Plan of this Highlands Element) shall include agricultural and horticultural uses (at minimum, as defined by the Highlands Act); permitted accessory uses to such agricultural and horticultural uses shall include ancillary, incidental and/or

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otherwise related supporting uses and the accessory structures devoted to such uses. As with all regulations developed pursuant to this Highlands Element, wherever the regulations of Lebanon Borough are more restrictive than those outlined herein, the Borough's regulations will supersede. This is explicitly acknowledged in the case of impervious cover regulations.

- b. Upon adoption of a Cluster Development Ordinance, the permitted principal residential use for any zoning district, or portion of any zoning district, which is located within the "Agricultural Resource Area" and which otherwise permits detached single-family residential development as a principal use, shall be restricted to residential cluster development wherever the minimum thresholds (e.g., lot size) for residential cluster development pursuant to the Cluster Development Ordinance can be satisfied (see Section D). Any lawfully existing or approved single-family residential development in the Agricultural Resource Area as of the date of adoption of the implementing Ordinances, if permitted by the underlying municipal Zoning Ordinance, shall remain a permitted use.
2. **Carbonate Rock Area.** Upon adoption of the appropriate regulatory provisions, the following principal and/or accessory uses and/or structures, where otherwise permitted by the municipal ordinance, shall be explicitly prohibited from any "Carbonate Rock Area" (as defined and delineated in the Conservation Plan Element) or from any lands identified as draining into a designated Carbonate Rock Area: solid waste landfills, hazardous waste storage and disposal facilities, hazardous materials storage and handling facilities, and underground storage tanks.
3. **Prime Ground Water Recharge Area.** 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 Potential Contaminant Source (PCS) by the Highlands Council (see Appendices A and C), where otherwise permitted by the municipal ordinance, shall be expressly prohibited from any "Prime Ground Water Recharge 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 listed as a Major or Minor Potential Contaminant Source (PCS) or which is designated by the Highlands Council as a potential source of pathogenic contaminants (see Appendices A, B and C), where otherwise permitted by the municipal ordinance, shall be expressly prohibited from any "Tier 1 Wellhead Protection Area" (as defined and delineated in the Conservation Plan Element).
5. **Wellhead Protection Area (Tier 2).** 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 Potential Contaminant Source (PCS) by the Highlands Council (see Appendices A and C) where otherwise permitted by the

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municipal ordinance, shall be expressly prohibited from any “Tier 2 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 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 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 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, 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 Borough 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. 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 must also reflect municipal intents with respect to growth and development of the community. Specifically, in Lebanon Borough, new development, infill development, redevelopment, or new uses shall be consistent with the character of established historic districts and such development shall not negatively impact the historic residential areas. A comprehensive analysis will be required as follow-up to adoption of the Highlands Element, to determine specific density and intensity allowances for

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future non-exempt development. The Board will, with the assistance of its professionals, complete this analysis to determine: 1) the capacity for future growth and development (based on the RMP and associated Technical Reports); 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 Borough has achieved Basic Plan Conformance.)

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

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 discussed in the Highlands ERI. These include, respectively, the Borough: “Net Water Availability Map” (see Exhibit M), “Public Community Water Systems Map” (see Exhibit Q), and “Highlands Domestic Sewerage Facilities Map” (see Exhibit R). 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. **Protection Zone, Conservation Zone, and Environmentally-Constrained Sub-Zones.** New, expanded, or extended public water systems are permitted only where approved by the Highlands Council and only after review and approval of Lebanon Borough.
 - b. **Existing Community Zone** (excluding Environmentally-Constrained Sub-Zone). Expansion or creation of public water systems is permitted only after review and approval of Lebanon Borough 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. **Protection Zone, Conservation Zone, and Environmentally-Constrained Sub-Zones.** New, expanded or extended wastewater collection and treatment systems

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and community on-site treatment facilities are permitted only where approved by the Highlands Council.

- b. **Existing Community Zone** (excluding Environmentally-Constrained 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 approved by the NJDEP in coordination with the Highlands Council.
- c. **All Areas/Zones/Sub-Zones.** All new, expanded or extended public wastewater collection and treatment systems and community on site treatment facilities must in addition, be reviewed and approved by the Lebanon Borough Sewer Authority.

6. Septic Systems – Key Provisions

- a. **Nitrate Targets.** The following nitrate dilution targets shall apply to the calculation of septic system yields:
 - i. **Existing Community Zone (and Sub-Zones)** – 2 mg/L, maximum
 - ii. **Conservation Zone (and Sub-Zones)** – 1.87 mg/L, maximum
 - iii. **Protection Zone (and Sub-Zones)** – 0.72 mg/L, maximum

Lebanon Borough Sewer Authority reserves the right to review and comment on any new development proposing septic systems.

- b. **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 Planning Area Zone (6a, 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.
- c. **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.
- d. **Nitrate Dilution Model.** Development proposals involving any need for new or increased septic system capacity shall demonstrate compliance with the nitrate targets in 6b and, where applicable, 6c above. Such compliance shall be determined by application of one of the following methods:
 - i. The modified Trela-Douglas nitrate dilution model used by the NJDEP (see

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<http://www.highlands.state.nj.us/njhighlands/planconformance/> for more information <http://www.njgeology.org/geodata/dgs02-6.htm>), 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, 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.

- ii. 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/>.
- e. **Application of Results.** The septic system yield for a proposed project shall be determined by dividing the total project area by the minimum acreage required per septic system, as determined by one of these models. For non-residential development, the resulting acreage is that necessary to support every 300 gallons of daily wastewater flow generated by the proposed non-residential use (see conversion factors below). Where a project site is located within more than one HUC14 subwatershed, septic system yields shall be computed for and applied to each portion of the site, accordingly.

This approach shall be applied on a project-specific basis until such time as the Septic System Yield is allocated among parcels through municipal zoning; the allocation of yield shall supersede this method. Regardless of whether a project-specific yield analysis or an allocation of Septic System Yield by zoning applies, the subwatershed yield shall in no case be exceeded; an increase in any one portion of a HUC14 subwatershed must be offset by an equivalent decrease elsewhere within the same subwatershed.

- i. For purposes of these analyses, the RMP septic system yield rules apply (see the Highlands Council *Regional Build-Out Technical Report*). For residential uses, the calculation assumes wastewater generation of 300 gallons per household per day. The RMP equivalent dwelling unit (EDU) value for non-residential septic uses equates to 2,400 square feet of Office/Commercial space and 18,182 square feet of Industrial space.
- ii. For detached single-family residential development, where the underlying density allowances of the Master Plan and zoning regulations are higher than those resulting from the nitrate dilution analysis as provided herein, septic system yields and resultant system density (typically denoted as minimum average acreage per septic system) may be equated to maximum permitted dwelling unit yield and minimum average lot size. Alternatively, the

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underlying allowances may be applied over a portion of the project area, to the point at which the calculated septic system yield (by HUC14) is reached, with the remainder of the site left undeveloped. If a Highlands Council-approved Cluster Development Ordinance (see Section D, following) has been adopted, its provisions shall apply and may take precedence in making this determination, if so provided therein.

- iii. For all other forms of development, projects shall be evaluated on the basis of overall wastewater disposal need and the capacity of the calculated septic system yield to support it.

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 provides for cluster development in the Agricultural Resource Area (as defined and delineated in the Agriculture Retention/Farmland Preservation Plan Element of this Highlands Element), wherein residential development shall be concentrated on a limited portion of a much larger tract, with the remaining land permanently deed-restricted for agriculture (as a priority), conservation or open space and either held in common by the homeowners or dedicated to the municipality (or other appropriate entity as required in the Cluster Development Ordinance).

To effectuate this component of the Land Use Plan, an RMP-consistent, Highlands Council-approved Cluster Development Ordinance must be adopted setting forth provisions applicable to such development, including but not limited to: minimum tract size, density and intensity allowances, applicable bulk standards, developed- and preserved-area allocations, and site design parameters, such as the use of smart growth principles and Low Impact Development practices (see Section J). Standards must also regulate conservation easements to ensure that they provide adequate resource protection, monitoring, and enforcement. These will include requirements for Farm Conservation Plans where preserved areas are dedicated to agriculture (see the Agriculture Retention/Farmland Preservation Element). The Highlands Council Cluster/Conservation Design Development Guidelines will assist in development of these regulatory provisions.

As follow-up to adoption of the Highlands Element, the Board will examine the opportunities for cluster development on a municipal-wide basis using a holistic planning approach. The Board will seek appropriate locations based on water and wastewater treatment capacity (as discussed at Section C, above), natural resource constraints, proximity to transportation and

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other support infrastructure, suitability by Highlands Zone and Sub-Zone, potential to enhance community character, and efforts to achieve center-based development while preserving the environs. The proposed Cluster Development Ordinance must be designed to maximize environmental protection and agricultural conservation while minimizing the overall number of isolated cluster developments in keeping with all other considerations. As part of this effort, the Board shall consider allowances for non-contiguous cluster development, wherein the development potential of scattered parcels may be transferred to one or a minimum number of individual cluster developments, each on the most suitable land in the most suitable location.

The Cluster Development Ordinance will incorporate all applicable provisions of the Highlands RMP, including the density provisions discussed at Section C, above. Upon adoption of a Cluster Development Ordinance, the permitted principal residential use for any zoning district, or portion of any zoning district, which is located within the "Agricultural Resource Area" and which otherwise permits residential development as a principal use, shall immediately be restricted to residential cluster development wherever the minimum thresholds for residential cluster development pursuant to the Cluster Development Ordinance can be satisfied. Any lawfully existing or approved residential development in the Agricultural Resource Area as of the date of adoption of the implementing Ordinances, if permitted by the underlying municipal Zoning Ordinance, shall remain a permitted use.

It is the long-term intent to require that where residential units of any kind are permitted in conjunction with, or as an accessory to any use in the Agricultural Resource Area, site development shall be "clustered" in accordance with conservation design requirements. This goal will be addressed through future supplements to the Cluster Development Ordinance or other land use ordinances, as appropriate.

E. LAND USE INVENTORY

Planning for the future of the Borough requires a clear understanding and assessment of existing land uses and development within the municipality. The Borough Land Use Inventory can be found in the municipal ERI figure #7 (Land Use/Land Cover Map). The ERI was prepared by Princeton Hydro and dated November 2008. The Land Use Inventory is representative of land use and development conditions within the municipality through 2008. The Land Use Inventory found on page 24 of the Borough of Lebanon Master Plan, prepared by Robert Tublitz, Assistant Director, Hunterdon County Planning Board, dated December 1973 requires an update to accurately represent existing land uses.

F. REDEVELOPMENT PLANNING

The Planning Board will examine the potential for redevelopment opportunities within the Borough. The term "redevelopment" is used herein to refer to reconstruction or re-use of previously developed and underutilized properties and to the rehabilitation and re-use of "brownfield" sites. Unless specifically stated otherwise, neither the term "redevelopment," nor the phrase "in need of redevelopment" is used herein to invoke the definitions, processes,

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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 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.

It is the intent of this Plan to encourage redevelopment where appropriate within the municipality, 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 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 Planning Area), 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 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.

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- 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. 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 or parts thereof 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. 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 Planning Area) are encouraged in all Areas, Zones and Subzones of the Borough. 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 Planning Area ordinance provisions for new development may not be feasible.
- c. Opportunities for redevelopment may be identified and explored by the Borough in the future.

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 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 Highlands Planning Area, and will fully regulate the use and development of lands within the Highlands Redevelopment Area.
- b. 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

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

- c. 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 J).
- d. Identification of opportunities for redevelopment projects and activities that are potentially suitable for Highlands Redevelopment Area designation 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*.

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HOUSING PLAN

The Borough's "Amended Third Round Housing Element and Fair Share Plan," prepared by Carl Hintz, PP/AICP, and Elizabeth K. McManus, PP/AICP, of Clarke Caton Hintz, was adopted by the Planning Board on May 19, 2010. These documents were filed with the Law Division of Superior Court on June 8, 2010. The overriding policy of the Housing Plan is to ensure provision of a variety of housing opportunities sufficient to address the needs of the community, including the need for affordable housing, while at the same time respecting the density limits of the Highlands Element Land Use Plan, the resource constraints applicable to the Highlands Area, and the numerous other policies, goals and objectives set forth by the Borough/Township/Town Master Plan. The Housing Plan furthers MLUL purposes of zoning (at N.J.S.A. 40:55D-2, specifically 2a., 2e., 2g., 2l.) and fulfills the requirements of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) which in keeping with New Jersey Supreme Court doctrine, as expressed in the "Mount Laurel" decisions, recognizes that every municipality in a "growth area" has a constitutional obligation to provide, through its land use regulations, a realistic opportunity for provision of a fair share of its region's present and prospective needs for housing for low- and moderate-income families.

A. GOALS AND OBJECTIVES

In furtherance of Borough/Township/Town efforts to ensure sound planning, this Plan incorporates the following goals and objectives with respect to future housing in the Highlands Area:

1. To the extent feasible, the zone plan will guide anticipated new residential development into compact, center-based projects (optional addition: incorporating a mix of housing types and/or mixed residential/commercial uses).
2. To provide a realistic opportunity for the provision of the municipal share of the region's present and prospective needs for housing for low- and moderate-income families.
3. To the maximum extent feasible, affordable housing units shall be incorporated into any new residential construction that occurs within the Highlands Area including any mixed use, redevelopment, and/or adaptive reuse projects.
4. To preserve and monitor existing stocks of affordable housing.
5. To reduce long term housing costs through:
 - a. The promotion of green building and energy efficient technology in the rehabilitation, redevelopment and development of housing. Recent innovations

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in building practices and development regulations reflect significant energy efficiency measures, and therefore cost reductions, through building materials, energy efficient appliances, water conservation measures, innovative and alternative technologies that support conservation practices, and common sense practices such as recycling and re-use.

- b. The promotion of the use of sustainable site design, efficient water management, energy efficient technologies, green building materials and equipment, and retrofitting for efficiencies.
 - c. Maximizing the efficient use of existing infrastructure, through such means as redevelopment, infill and adaptive reuse.
6. To use a smart growth approach to achieving housing needs:
- a. Use land more efficiently to engender economically vibrant communities, complete with jobs, houses, shopping, recreation, entertainment and multiple modes of transportation.
 - b. Support a diverse mix of housing that offers a wide range of choice in terms of value, type and location. In addition, seek quality housing design that provides adequate light, air, and open space.
 - c. Target housing to areas with existing higher densities and without environmental constraints, within walking distance of schools, employment, services, transit and community facilities with sufficient capacity to support them.

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CONSERVATION PLAN

The basis for the Conservation Plan Element is the Highlands Environmental Resource Inventory (ERI) for the Borough, which is herewith adopted and incorporated in its entirety as an integral component of the Master Plan. The ERI (which will be further supplemented through the Plan Conformance process) 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 Highlands ERI is an Addendum to the Borough ERI of 2008, prepared by Princeton Hydro, LLC. The ERI identifies, categorizes and delineates the wide array of natural resources and resource areas existing in the Borough, 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 Borough , 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

Forest Resource delineations appear in the attached exhibits, as: “Total Forest Area”, (see Exhibit D) and “Forest Subwatersheds”, (see Exhibit E).

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 Borough Forest Resources.

1. **Protection and Conservation Zones.** To limit development of High- and Moderate Integrity Forest Subwatersheds, while requiring for all Forest Subwatersheds, incorporation of Low Impact Development Best Management Practices (see Section J) and adherence to Forest Mitigation Plans.
2. **Existing Community Zone.** To limit deforestation in connection with development in High Integrity Forest Subwatersheds to that which will not diminish forest integrity, while requiring incorporation of Low Impact Development Best Management Practices and adherence to Forest Mitigation Plans.
3. **All Zones and Sub-Zones**
 - a. 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 by conservation easement post-construction.

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- b. To prohibit clear-cutting within any portion of the Total Forest Area except pursuant to a Forest Management Plan approved by the State Forester.
- c. To permit forestry activities within forested lands only in compliance with the 2010 – 2014 Community Forestry Management Plan (February 5, 2010) and the Highlands Council until such time as an approved Forest Management Plan is adopted by the Borough.
- d. To maintain forest cover in the natural and built environment to the maximum extent possible.

B. HIGHLANDS OPEN WATERS AND RIPARIAN AREAS

Highlands Open Waters and Riparian Areas within the municipality appear in the maps entitled “Highlands Open Waters” (see Exhibit F), and “Highlands Riparian Areas”, (see Exhibit G), and are supplemented by figures indicating “Watershed Value” (see Exhibit H), and “Riparian Integrity” (see Exhibit I). 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 Borough.

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 limit disturbances within established Highlands Open Waters buffer areas to previously disturbed areas, only, with jurisdiction over any waivers from this restriction left to the Highlands Council. Approval of buffer disturbances in previously disturbed areas should occur only where an applicant can satisfactorily demonstrate

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- that: a) the encroachment cannot be avoided, b) the disturbance is the minimum feasible, and c) any adverse impacts will be mitigated to result in no net loss of functional value (in accordance with the functional value assessment methodology provided in the ERI).
4. 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.
 5. To seek opportunities to enhance Highlands Open Waters buffers by improving functional values while ensuring no net loss (see ERI assessment methodology).
 6. 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 Category 2 surface waters, only, areas for 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).
 7. To prohibit modifications to Riparian Areas in the Protection Zone except where a waiver is approved by the Highlands Council.
 8. To limit disturbance of existing natural vegetation or increases in impervious area within High and Moderate Integrity Riparian Areas in all other Zones and Sub-Zones 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 and those supporting the community's natural resource walking trails.
 9. To restrict modifications to Riparian Areas in Existing Community and Conservation Zones, other than those addressed by Objective 8, above, that would alter or be detrimental to the water quality and habitat value of a Riparian Area.
 10. To require use of Low Impact Development Best Management Practices (see Section J) for any development activity proposed within a Riparian Area to minimize both alteration of natural vegetation and increase in impervious area and to provide for mitigation through restoration of impaired Riparian Areas in the same HUC14 subwatershed.

C. STEEP SLOPES

Steep slopes identified within the municipality appear in the mapping entitled "Steep Slope Protection Areas" (see Exhibit J) This Plan recognizes and incorporates the descriptions, definitions, delineations and values regarding steep slopes as discussed in the ERI.

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The Borough 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 Borough 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 J) 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.

D. CRITICAL HABITAT

Critical Habitat within the municipality appears in the mapping entitled “Critical Wildlife Habitat” (see Exhibit K). 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 are those certified by the NJDEP. To protect the habitat requirements of vernal pool-breeding wildlife,

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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 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 J) 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 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.

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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.
 - 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.
 - c. Prohibit modifications to the delineation of Critical Wildlife Habitat, except as permitted through the issuance of a waiver from the Highlands Council.

E. CARBONATE ROCK

Carbonate Rock Areas within the municipality appear in the mapping entitled “Carbonate Rock Areas” (see Exhibit L). 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 Borough, 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 Borough Carbonate Rock Areas.

1. To continuously update and improve maps and delineations of 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 established Carbonate Rock Areas, for easy reference by applicants, reviewing officials, and Land Use Boards. This will

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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, 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 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 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 discharge, including but not limited to: solid waste landfills, hazardous waste storage and disposal facilities, hazardous materials storage and handling facilities, and underground storage tanks.

F. WATER RESOURCES AVAILABILITY

Borough water availability is represented by the mapping entitled, “Net Water Availability” (see Exhibit M). 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 Borough lies within a single HUC14 subwatershed, which has positive net water availability.

The availability of water for human use is a critical factor in determining the capacity for growth and continued economic vitality in the Borough. The availability of water for ecological purposes is critical to sustaining the aquatic ecosystems of streams, ponds and lakes. Of particular concern to the Borough 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.

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

1. To protect, restore (if applicable) and enhance the availability of surface and ground water in the Borough.
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 only until such time as a municipal Water Use and Conservation Management Plan has been developed and adopted.
5. Within Protection Zone and Conservation 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 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 the Cluster Development 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. Infill development;
 - b. Designated Highlands Redevelopment Areas;
 - c. Projects proposing affordable housing in excess of the obligation otherwise generated by them; and
 - d. New areas for development that meet all other requirements.
7. To encourage agricultural and horticultural enterprises located in Conservation Zone watersheds to minimize consumptive water uses through efficiency measures.

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8. 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.
9. 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.
10. 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.
11. 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 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.
12. 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.

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G. PRIME GROUND WATER RECHARGE AREAS

Prime Ground Water Recharge Areas within the municipality appear in the mapping entitled “Prime Ground Water Recharge Areas” (see Exhibit N). This Plan recognizes and incorporates the descriptions, definitions and delineations for Prime Ground Water Recharge Areas (PGWRAs) as discussed in the Highlands 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 Highlands 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 so heavily rely.

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

1. To protect, enhance, and restore the quantity and quality of Prime Ground Water Recharge Areas.
2. To require use of Low Impact Development (see Section J) 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. Such uses (and any structures devoted or related thereto) should include at minimum, those designated as Major and/or Minor Potential Contaminant Sources (PCS) by the Highlands Council (see Appendices A, B and C).
6. 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.
7. To achieve a net improvement in ground water volume and quality through enhanced infiltration, pretreatment and other available means.

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H. WATER QUALITY

This Plan incorporates the descriptions, definitions and summary data regarding water quality by HUC14, as discussed in the ERI. In addition, it includes the map entitled “HUC 14s on NJDEP Impaired Waters List” (see Exhibit O). 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 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 Borough.

1. To protect, restore (if applicable) and enhance water quality.
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 water resources and continued protection and management of critical lands for water quality purposes. Lebanon Borough requires development adjacent to water resources carry out pre- and post- construction water quality sampling and testing. As discussed in the Introduction of the Highlands Element (p. 2), municipal requirements such as this one, that may be restrictive (or more inclusive) than Highland’s regulations, shall not be superseded by the Highland’s regulations.
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 J) and Best Management Practices to protect the quality of ground and surface waters.

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I. WELLHEAD PROTECTION

Wellhead Protection Areas within the municipality appear in the mapping entitled “Wellhead Protection Areas” (see Exhibit P). This Plan recognizes and incorporates the descriptions, definitions and delineations for Wellhead Protection Areas (WHPAs) as discussed in the ERI. 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 Borough Wellhead Protection Areas.

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 Wellhead Protection Areas. Such uses (and any structures devoted or related thereto) should include at minimum, those designated by the Highlands Council as Major and Minor Potential Contaminant Source (PCS) or as potential sources of pathogenic contaminants (see Appendices A, B and C).
4. To prohibit land uses and activities that pose significant risk of ground water contamination from locations delineated as Tier 2 Wellhead Protection Areas. Such uses (and any structures devoted or related thereto) should include at minimum, those designated as Major and Minor Potential Contaminant Source (PCS) by the Highlands Council (see Appendices A, B and C).
5. To require that land uses and activities that pose significant risk of ground water contamination in locations delineated as Tier 3 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.

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6. To ensure that stormwater management plans pertinent to both development applications and municipal-wide planning, address wellhead protection requirements.
7. 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.
8. To restrict development activities that pose threats to the water quality of public water supply wells.
9. 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.
10. 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.

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J. 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 municipality. 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 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 Borough 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.

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- 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 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 resources should be identified as a first step in site planning.
 - b. To the maximum extent practicable Highlands resources should be avoided or their disturbance minimized through site design.
 - c. The quality and value of Highlands 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.

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UTILITY SERVICES PLAN

It is the overarching policy of this Plan to ensure that development of the Borough does not exceed the available environmental and infrastructural capacity to support it. The Utilities Services Plan recognizes and incorporates the following maps from (and described and discussed in) the Highlands ERI: “Public Community Water Systems Map” (see Exhibit Q), and “Highlands Domestic Sewerage Facilities Map” (see Exhibit R).

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 Borough, that utility service locations occur in the most appropriate portions of the municipality 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 Borough regulation and management of water and wastewater utilities, and use and maintenance of septic systems.

1. To ensure that all existing and future development 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.
3. To prohibit the creation or extension of public water supply systems and wastewater collection and treatment systems within the Protection Zone, the Conservation 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 approved by the NJDEP in coordination with the Highlands Council) and with local community agency review and approval.
 - 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.

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- b. Secondary priority for such systems should be assigned to TDR Receiving Zones, infill development, redevelopment and affordable housing projects.
5. 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.
6. 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.
7. 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 of affected subwatersheds.
8. 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.
9. To ensure the development of a Borough-wide septic system management/maintenance plan.
10. To develop a Wastewater Management Plan for the Borough.

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CIRCULATION PLAN

The existing Master Plan does not have 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. It is the intent of the Planning Board to fully develop and adopt such an Element. It will include a mapped inventory of all municipal transportation features, detailed description of each, applicable municipal goals and objectives, as well as the information and additional goals and objectives listed below.

The “Highlands Roadway Network” (see Exhibit S) and “Highlands Transit Network” (see Exhibit T) maps together illustrate the regional transportation network and facilities of the Borough. 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 municipality.

The municipality currently anticipates, proposes, or has identified the need for modifications to the portion of the transportation system as listed below:

1. Installation of sidewalks along Central Avenue, State Grant funding
2. Pedestrian improvements to Cokesbury Road.

As discussed in the ERI, future and existing development and redevelopment in the municipality 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 Borough.

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 municipality.
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.

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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 consider nomination of locally designated scenic byways for inclusion on the Highlands Scenic Resources Inventory (see Scenic Resources, Section B of Historic Preservation Plan Element), and if successful, to develop a Highlands Council approved Scenic Byways Management Plan providing for the regulation and protection of such byways, which may include, among other things, prohibitions on billboards and outdoor advertising that may be obtrusive from placement within or encroachment upon designated scenic byway areas.
10. To support efforts by the I-78 Corridor Historic and Scenic Byway Alliance to attain designation of a substantial segment of the Interstate 78 highway corridor where it passes through Hunterdon and Warren Counties, including those portions in and affecting the Borough of Lebanon, as a Historic and Scenic Byway.
11. 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, to ensure the safety and viability of farming as an occupation.
12. 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.
13. 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

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are likely to be growth-inducing for lands with limited or no capacity to support human development without adverse impact on Highlands resources.

14. To limit road improvements where roads are constrained by topography, adjacent forested lands, or other sensitive environmental features such as critical habitat.
15. To ensure that road improvements are designed to enhance community character and to avoid adverse impacts to adjoining or otherwise affected properties.
16. 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.
17. To seek and encourage to the extent applicable, development and redevelopment in areas proximate to rail stations and along bus routes.
18. To promote development of mixed land uses, where appropriate, in locations that result in reduced motor vehicular trips and average trip lengths.
19. To permit and encourage use of shared parking areas, driveways, and other such infrastructure to limit paved surfaces and maximize efficiencies.
20. To ensure coordination between transportation planning and the Land Use Plan Element and to integrate smart growth principles into both.
21. To enhance the visual and aesthetic qualities of local roadway networks by following the best practices for restoring, preserving and enhancing roadside beauty.
22. To consider the policies, principles, and guides recommended by national environmental and planning organizations for transportation corridors and adjoining land development.

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LAND PRESERVATION AND LAND STEWARDSHIP PLAN

The existing Master Plan does not have an Open Space and Recreation Plan Element providing detailed information on existing and proposed open space preservation and recreational opportunities in the community. It is the intent of the Planning Board to fully develop and adopt such an Element. Until such time as that task is complete, the narrative herein shall serve as the Land Preservation & Land Stewardship Plan Element.

A mapped inventory of Preserved Lands in the Borough entitled “Preserved Lands” (see Exhibit U) accompanies this document. This Plan in addition, incorporates maps entitled “Highlands Conservation Priority Areas” (see Exhibit V) and “Preserved Farms, SADC Easements, All Agricultural Uses” (see Exhibit W). This Plan recognizes and incorporates the definitions, derivations and delineations used to develop these maps, as provided in the ERI.

Preserved Lands in the Borough include lands under ownership by the municipality and the state. 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 maps indicate 38 acres of Preserved Lands, representing 24 acres of Preserved Farmland, 4 acres of municipal land, and 10 acres of state-owned preserved open space 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.

The Highlands Agricultural Priority Area, lastly, consists of those lands determined by the Highlands Council, in coordination with the NJDA and the State Agriculture Development Committee (SADC), based on an agricultural resource assessment, to have the highest agricultural resource values.

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

1. To apply Highlands Council prioritization criteria in making determinations regarding non-agricultural Land Preservation (whether by fee simple or easement dedication), which are ordered as follows:
 - a. Lands within Highlands Conservation Priority Areas; and
 - b. Lands within Highlands Resource Areas generally, including but not limited to forested portions of Forest Resource Areas, Critical Habitat Areas, and Riparian

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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 least one of the following entities, as qualified and amenable in accordance with the particular circumstances: the Borough, 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 Borough. 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 ensure maximum protection for scenic and aesthetic values by adopting the best practices that will enhance and preserve open space, protect and enhance visual quality, and develop livable communities.

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AGRICULTURE RETENTION/FARMLAND PRESERVATION PLAN

The existing Master Plan does not have an Agriculture Retention/Farmland Preservation Plan Element providing detailed information on existing and proposed farmland preservation priorities in the community. Due to the very limited amount of farmland remaining in the Borough, the narrative herein shall serve as the Agriculture Retention/ Farmland Preservation Plan Element.

The mapped inventory of Preserved Farmland in the Borough is is entitled “Preserved Farms, SADC Easements, All Agricultural Uses” (see Exhibit W).. In addition, this Plan incorporates maps entitled “Important Farmland Soils,” (see Exhibit X) “Agricultural Resource Area,” (see Exhibit Y), and “Highlands Agricultural Priority Area” (see Exhibit Z). This Plan recognizes and incorporates the definitions, derivations, and delineations used to develop these maps, as provided in the ERI and in all background technical data which derive from: the NJDA, the SADC, the NJDEP, and the Natural Resources Conservation Service (NRCS), the Highlands RMP and Highlands Council *Sustainable Agriculture Technical Report*.

Preserved Farmland includes farms that are preserved through the SADC Farmland Preservation Program, farms that have final approval from the SADC, and farms under the SADC eight-year easement program. *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:

- 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. 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.

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The Agricultural Resource Area consists of those areas of most concentrated and contiguous agricultural uses in the municipality, using Important Farmland Soils as a critical factor in the delineation. Highlands Agricultural Priority Areas, lastly, are those determined by the Highlands Council, in coordination with the NJDA and SADC, based on an agricultural resource assessment, to have the highest agricultural resource values.

The overriding policy of this Plan is to ensure the long-term sustainability of agricultural resources and the viability of agriculture as a business in the municipality. Achieving this aim requires maintenance of a healthy agricultural environment with a sufficient agricultural land base. Accordingly, the below-listed goals and objectives will guide the future land use and management of the Borough Agricultural Resource Area.

1. To promote farmland preservation and limit non-agricultural uses within the Agricultural Resource Areas.
2. To apply Highlands Council prioritization criteria in making determinations regarding Agricultural Land Preservation (whether by fee simple, easement dedication, transfer of development rights, or other agricultural land conservation techniques), which are ordered as follows:
 - a. Farmland designated as Agricultural Priority Area, as defined in the Agriculture Retention/Farmland Preservation Plan Element and delineated in Exhibit Y; and
 - b. Farmland located within an Agricultural Resource Area, as defined in the Agriculture Retention/Farmland Preservation Plan Element and delineated in Exhibit X.
3. To limit non-agricultural uses within the Agricultural Resource Area to the extent feasible, to those designed to support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect Important Farmland Soils, and meet the resource management and protection requirements of the Conservation Plan Element.
4. To require that, where preservation of agricultural lands within the Agricultural Resource Area is not feasible, any residential development be permitted only under conservation design parameters, such as cluster development.
 - a. To require that cluster or conservation design development within the Agricultural Resource Area support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect Important Farmland Soils, and meet resource management and protection requirements of the Conservation Plan Element.
 - b. To require that all cluster or conservation design development within the Agricultural Resource Area be buffered appropriately to avoid conflicts

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between non-agricultural development and agricultural activities, and to protect existing agricultural uses and sensitive environmental resources.

- c. To require that all land preserved in perpetuity for agricultural purposes as a result of clustering be subject to a conservation easement enforceable by the Highlands Council and at least one of the following: the municipality, the County Agriculture Development Board or the SADC.
 - d. To permit retention of the original farmstead or construction of new farmsteads associated with preserved agricultural lands in cluster developments, wherever feasible.
 - e. To require implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA NRCS, Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).
5. To permit family and farm labor housing in the Agricultural Resource Area as appropriate, to support the viability of permitted agricultural operations, subject to compliance with the resource management and protection requirements of the remainder of the Highlands Element.
 6. To promote the Right to Farm Act and to incorporate land use regulations that are consistent with and further its intents and purposes.
 7. To protect and enhance surface and ground water quality and natural resources within the ARA by promoting the use of Best Management Practices including the use of USDA NRCS and Farm Service Agency cost-share programs.
 8. 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.

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COMMUNITY FACILITIES PLAN

The existing Master Plan does not have a current Community Facilities Plan Element. It is the intent of the Planning Board to develop and adopt such an Element. It will include a mapped inventory of such facilities, a brief description of each, and applicable goals and objectives including but by no means limited to those 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 Borough.

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.

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SUSTAINABLE ECONOMIC DEVELOPMENT PLAN

A sustainable economy is important to the well-being of the Borough 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.
6. To develop strategies to reduce visual blight and clutter and thereby maintain an economic environment that attracts new businesses and retains existing businesses that complement the character of the surrounding area and are consistent with livable communities.

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HISTORIC PRESERVATION PLAN

The existing Master Plan does not have a 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. 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 Borough survey of historic sites appears in this document as a map entitled “Historic, Cultural, and Archaeological Resource Inventory” (see Exhibit AA). The list comes directly from the Highlands Region Historic, Cultural, and Archaeological Resources Inventory (as of November 2007), 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 municipality form an essential component of its character and aesthetic quality. They preserve a part of the history of the Borough 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.

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.

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The following sites, districts, and properties are listed in the Highlands Historic and Cultural Resources Inventory. In addition, the Borough's Historic District has recently been listed on the State and National Register of Historic Places.

**Central Railroad of New Jersey Main Line Corridor Historic District
(ID # 3500)**

Rail road ROW from Phillipsburg to Bayonne
DOE 11/30/1995SHPO Opinion 7/19/1991

Hickory Creek Pullman/Observation Lounge Railcar (ID # 4814)

NJ Transit Raritan Valley Line at Railroad Ave
SHPO opinion 5/21/1998

Lebanon Historic District (ID # 4475)

Main, Cherry, Maple & High Streets; Brunswick Avenue
NR: 8/26/2009
SR: 5/1/2009
COE: 9/13/2005

New York Central Railroad 43 (Tavern/Lounge Car) (ID # 4811)

NJ Transit Raritan Valley Line at Railroad Avenue
SHPO Opinion: 3/31/2000

Pennsylvania Railroad 9286, Class B-60b, Express-messenger Car (ID # 4809)

NJ Transit Raritan Valley Line at Railroad Avenue
SHPO Opinion: 3/31/2000

Railroad Passenger Coach 5313 (ID# 4815)

SHPO Opinion: 6/11/1998
(aka Great Northern Railroad Coach 1215)

Railroad Passenger Coach 5317 (ID# 4816)

SHPO Opinion: 6/11/1998
(aka Great Northern Railroad Coach 1216)

Railroad Passenger Coach 5318 (ID# 4817)

SHPO Opinion: 6/11/1998
(aka Great Northern Railroad Coach 1224)

Railroad Passenger Coach 5329 (ID# 4818)

SHPO Opinion: 6/11/1998
(aka Union Pacific Railroad Coach 5487)

Railroad Passenger Coach 5331 (ID# 4819)

SHPO Opinion: 6/11/1998
(aka Union Pacific Railroad Coach 5469)

Railroad Passenger Coach 5332 (ID# 4820)

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SHPO Opinion: 6/11/1998
(aka Union Pacific Railroad Coach 5470)

Railroad Passenger Coach 5333 (ID# 4821)

SHPO Opinion: 6/11/1998
(aka Union Pacific Railroad Coach 5471)

Railroad Passenger Coach 5334 (ID# 4822)

SHPO Opinion: 6/11/1998
(aka Union Pacific Railroad Coach 5477)

Ramsey-Clarke Farm (ID# 3724)

Main Street and Blossom Hill Road
SHPO Opinion: 2/2/2001

Round Valley Road Bridge (ID# 265)

NJ Transit Raritan Valley Line, Milepost 47.92 over Round Valley Road
SHPO Opinion: 2/3/1999
COE: 2/11/1999

B. SCENIC RESOURCES

The Borough baseline survey of scenic resources appears in the map entitled "Baseline Scenic Resources Inventory" (see Exhibit BB). The list includes only one site, as noted 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.

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

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 municipality 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.

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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
7. To consider nomination of additional resources to the Highlands Scenic Resources Inventory, in particular with respect to designation of scenic byways in the Borough.
8. To consider scenic conservation principles, policies, and guides established or recommended by national environmental and planning associations to establish, preserve, protect, and enhance Scenic Resources.

The following location is listed in the Highlands Scenic Resources Inventory:

- a) Round Valley Recreational Area

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RELATIONSHIP OF MASTER PLAN TO STATE/REGIONAL/LOCAL PLANS

By adoption of this Highlands Element, the Borough 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 Borough. 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 in Exhibit CC. A similar figure appears in the Lebanon Borough ERI, prepared by Princeton Hydro, dated November 2008 (Figure #5). 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 Borough;
2. Encouraging the use of smart growth principles in locations 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 Borough development plan to those of the county and contiguous municipalities insofar as it affects the intents for land use and development within the Borough. 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 municipality 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

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the municipal Land Use Plan. An important component of that analysis will be in regard to watershed-based planning. To the extent that the Borough 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.

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ACRONYMS

CADB	County Agriculture Development Board
ERI	Environmental Resourced Inventory
EDU	Equivalent Dwelling Unit
FAR	Floor Area Ratio
GIS	Geographic Information Systems
HDC	Highlands Development Credit
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

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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. Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills.
2. Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials.
3. Any use or activity requiring the underground storage of a hazardous substance or waste in excess of an aggregate total of 50 gallons.
4. 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.).
5. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
6. Any industrial treatment facility lagoon.
7. Any industrial facility with a SIC Code number included under the New Jersey Safe Drinking Water Act Regulations at N.J.A.C 7:10A-1.14, Table II(N)A, with a toxicity number of II or greater. (See Appendix C.)
8. Automotive service center (repair & maintenance).
9. Landfill.
10. Dry cleaning processing facility.
11. Road salt storage facility.
12. Cemetery.
13. Highway maintenance yard.
14. Truck, bus, locomotive maintenance yard.
15. Site for storage and maintenance of heavy construction equipment and materials.
16. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.

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17. 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.
18. Quarrying and/or mining facility.
19. Asphalt and/or concrete manufacturing facility.
20. Junkyard/auto recycling and scrap metal facility.
21. Residential or agricultural motor fuel in NJDEP exempted underground storage tanks (i.e., under 1,000 gallons).

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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. Sanitary sewer system, including sewer line, manhole, or pump station.
5. Industrial waste line.
6. Septic leaching field.
7. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
8. Stormwater retention-recharge basin.
9. Dry well.
10. Storm water conveyance line.
11. Waste oil collection, storage and recycling facility.
12. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
13. Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
14. 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.

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

APPENDIX C MAJOR POTENTIAL POLLUTANT SOURCES

Facilities with Toxicity Ratings of II or Greater

N.J.A.C. 7:10A-1.14(c)4, Table II(N)A

<i>SIC Code for Industrial Facility*</i>	<i>Description of Industrial Facility which includes activities that may release hazardous substances</i>	<i>Toxicity Rating</i>
Any SIC Code	All ground water remediation of toxic substances, including priority pollutants	V
Any SIC Code	Contaminated storm water runoff from any type of facility listed below	
0721	Crop dusting and spraying	IV
10xx	Metal mining	V
12xx	Coal mining	III
1475	Phosphate rock mining	IV
22xx	Textile mills with finishing operations (dyeing, coating, etc.)	V
2491	Wood preserving	VI
2493	Reconstituted wood products	II
25xx	Furniture & fixtures with metal finishing	V
261x, 262x, 263x	Pulp, paper, and paperboard mills	V
27xx	Printing & publishing	II
2812	Inorganic chemicals, alkalis & chlorine	V
2813	Industrial gases	II
2816	Inorganic pigments	IV
2819	Industrial inorganic chemicals	IV
282x	Plastic materials & synthetic resins	V
283x	Drugs	V
284x	Soaps, detergents, etc.	III
285x	Paints, etc.	IV
2861	Gum & wood chemicals	III
2865, 2869	Industrial organic chemicals	VI
2879	Pesticides & agricultural chemicals	VI
289x, except 2891	Miscellaneous chemical products	IV
2891	Adhesives & sealants	V
29xx	Petroleum refining	V
30xx	Rubber & plastic products	IV
3111	Leather tanning & finishing	IV
331x, except 3313	Steel mills	VI
3313	Electrometallurgical products, except steel	III
332x	Iron & steel foundries	V
333x	Primary smelting, nonferrous metals	VI
334x	Secondary smelting, nonferrous metals	V
335x	Rolling, drawing, extruding, nonferrous metals	V
336x	Nonferrous foundries	V
339x	Miscellaneous primary metals products	V

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

<i>SIC Code for Industrial Facility*</i>	<i>Description of Industrial Facility which includes activities that may release hazardous substances</i>	<i>Toxicity Rating</i>
341x, 342x, 343x, 344x, 345x, 346x, except 3431 & 3463	Fabricated metal products, with metal finishing	V
3431	Enameled sanitary ware, cast iron basis	VI
3463	Nonferrous forgings	V
347x	Plating & coating	V
348x	Ordinance, with metal finishing	V
348x	Ordinance, explosive load, assembly, packing	IV
349x, except 3497	Miscellaneous fabricated metal products, with metal finishing	V
3497	Metal foil & leaf	V
35xx	Industrial/commercial machinery & equipment, with metal finishing	V
36xx	Electronic equipment, with metal finishing or porcelain enameling	V
3624	Carbon & graphite products	V
3671	Cathode ray tubes	V
3672	Printed circuit boards	V
3674	Semiconductors	VI
3679	Electronic crystals only	III
3691, 3692	Batteries	IV
37xx, except 3731	Transportation equipment, with metal finishing	V
3731	Ship building	IV
38xx	Measuring, analyzing & controlling instruments, with metal finishing	V
3844, 3845	Measuring, analyzing & controlling instruments, with electron tube manufacture	V
3861	Photographic related chemicals	V
39xx	Miscellaneous manufacturing industries, with metal finishing	V
4231	Trucking terminals	III
4493	Marinas	III
4499	Water transportation services	III
46xx	Pipelines, except natural gas	V
4911, 4931	Electric services	IV
4941	Water supply treatment (public and industrial)	IV
4953	Solid waste facilities	IV
4953	Hazardous waste treatment facilities	VI
5052	Coal & other minerals & ores	V
5093	Scrap & waste materials	VI
5169	Chemicals & allied products	VI
5171	Petroleum bulk stations & terminals	V
5191	Farm supplies	IV
7211, 7215, 7216 & 7217	Laundries, dry-cleaning & carpet/upholstery cleaning	II

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

<i>SIC Code for Industrial Facility*</i>	<i>Description of Industrial Facility which includes activities that may release hazardous substances</i>	<i>Toxicity Rating</i>
7213, 7218	Linen supply & industrial launderers	IV
7342	Disinfecting & pest control services	VI
7389	Solvents recovery services only	VI
7542	Car & truck washes	II
7699	Repair shops, with metal finishing	V
8062	General medical & surgical hospitals	VI
8069	Specialty hospitals	VI
8071	Medical laboratories	VI
8731	Commercial research organizations	IV
8733	Non-commercial research organizations	IV

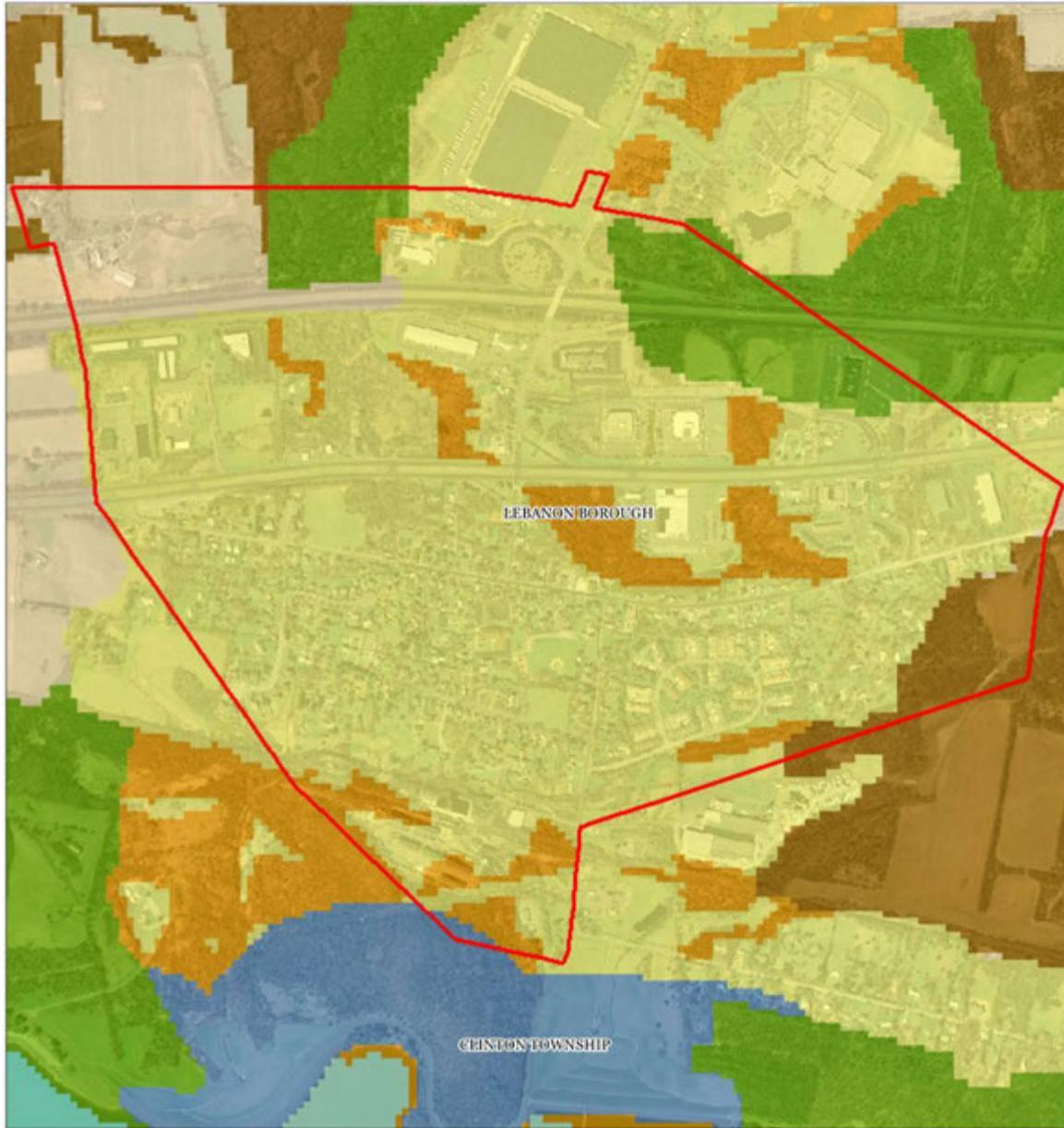
**SIC (Standard Industrial Classification) Codes are determined from the Federal Manual (1987) issued by the United States Office of Management and Budget.*

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

EXHIBITS

- A. Borough of Lebanon Highlands Planning Area
- B. [*Reserved*]
- C. Highlands Contaminated Sites Inventory
- D. Total Forest Area
- E. Forest Sub Watersheds
- F. Highlands Open Waters
- G. Highlands Riparian Areas
- H. Watershed Values
- I. Riparian Integrity
- J. Steep Slope Protection Areas
- K. Critical Wildlife Habitat
- L. Carbonate Rock Areas
- M. Net Water Availability
- N. Prime Ground Water Recharge Areas
- O. HUC 14's on NJDEP Impaired Waters List
- P. Well Head Protection Areas
- Q. Public Community Water Systems Map
- R. Highlands Domestic Sewerage Facilities Map
- S. Highlands Roadway Network
- T. Highlands Transit Network
- U. Preserved Lands
- V. Highlands Conservation Priority Areas
- W. Preserved Farms, SADC Easements, All Agricultural Uses
- X. Important Farmland Soils
- Y. Agricultural Resource Areas
- Z. Agricultural Priority Areas
- AA. Historic, Cultural, and Archeological Resource Inventory
- BB. Baseline Scenic Resources
- CC. State (SDRP) Planning Areas

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Regional Master Plan Overlay Zone Designation

- | | |
|--|-----------------------------|
| Zone | Lakes Greater Than 10 acres |
| Protection | Preservation Area |
| Conservation | Municipal Boundaries |
| Existing Community | |
| Sub-Zone | |
| Existing Community Environmentally Constrained | |
| Conservation Environmentally Constrained | |
| Lake Community | |
| Wildlife Management | |

LEBANON BOROUGH

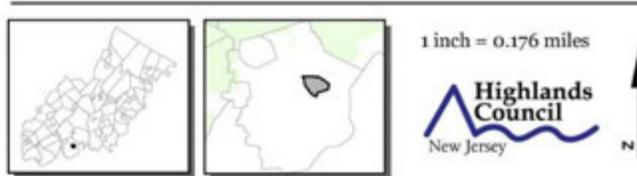


Exhibit A. Borough of Lebanon Highlands Planning Area

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

Exhibit B. [*Reserved*]

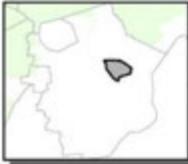
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Highlands Contaminated Site Inventory

LEBANON BOROUGH

- Tier 1 Sites
- Tier 1 Sites (Polygons)
- Tier 2 Sites
- Preservation Area
- Municipal Boundaries



1 inch = 0.18 miles



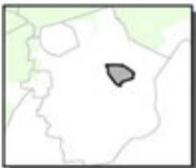
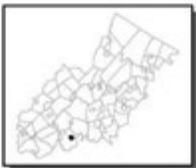
Exhibit C. Contaminated Sites Inventory

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Forested Areas
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

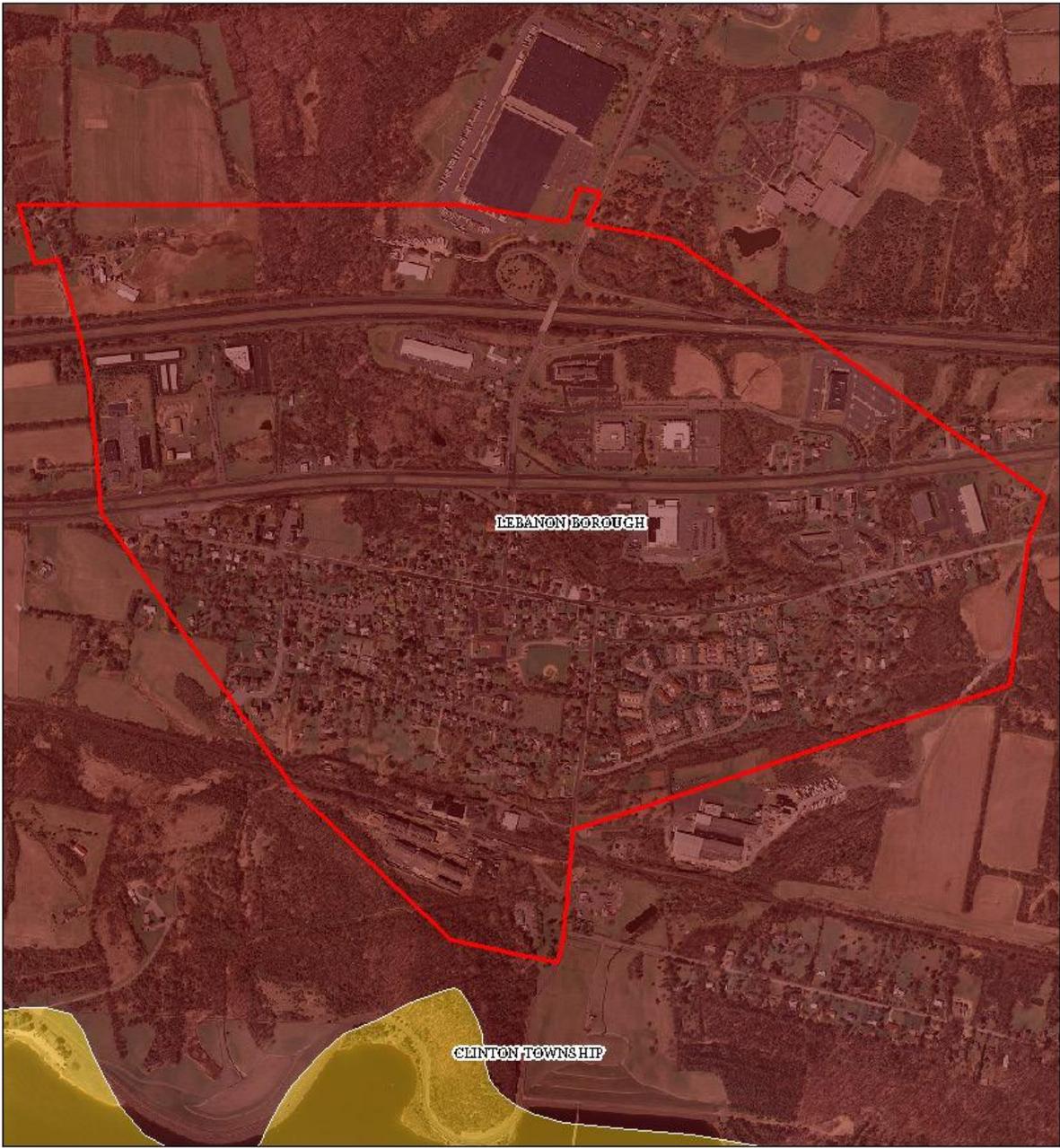


1 inch = 0.18 miles



Exhibit D. Total Forest Area

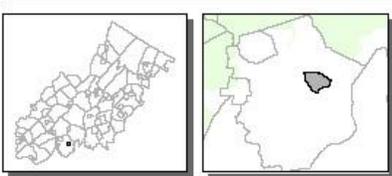
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Forest Integrity by HUC14 Subwatershed

LEBANON BOROUGH

- Low*
- Moderate*
- High*
- Preservation Area
- Municipal Boundaries

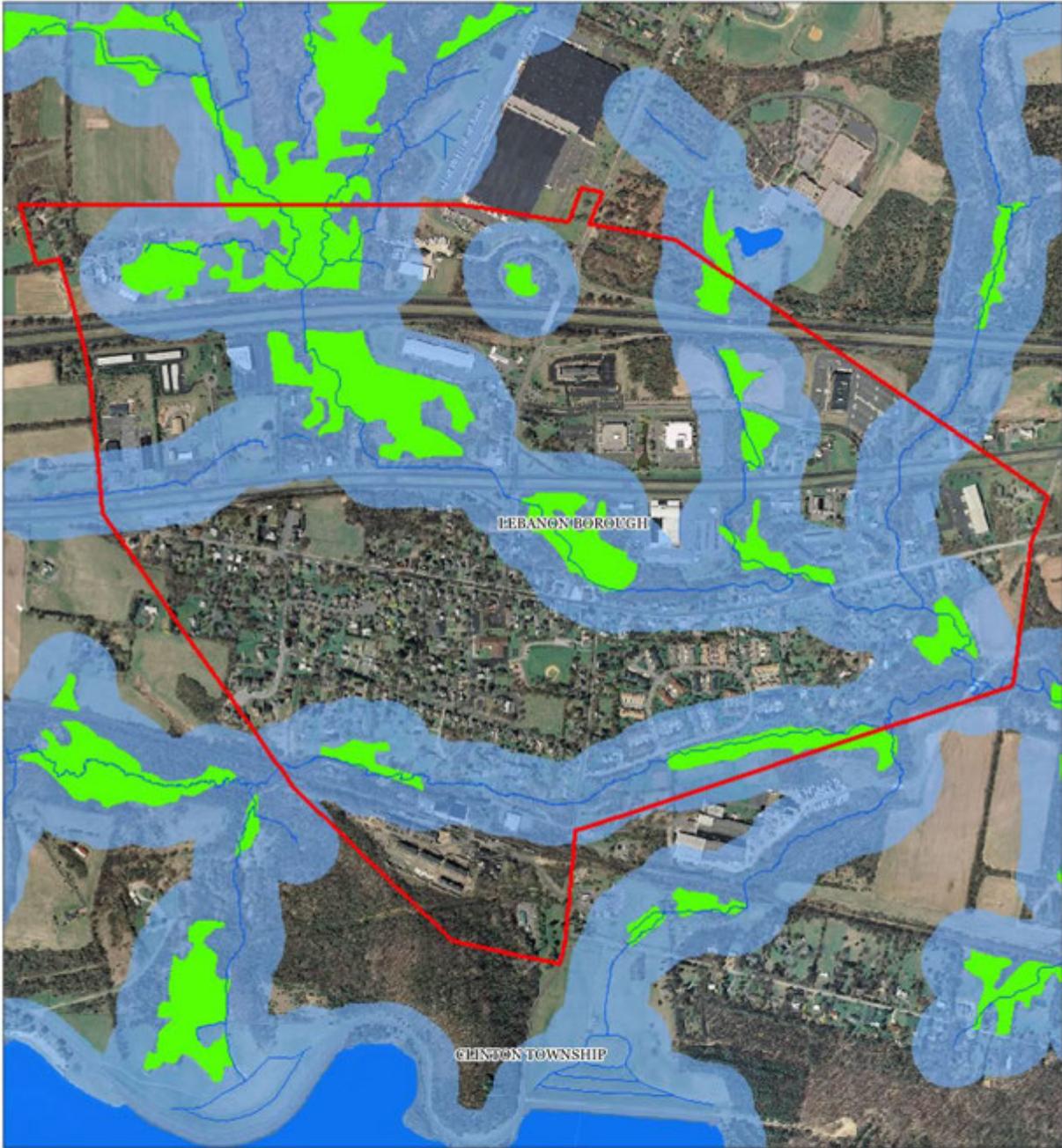


1 inch = 0.18 miles



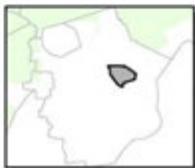
Exhibit E. Forest Subwatersheds

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- Highlands Open Water Buffers (300ft)
- Streams
- Wetlands
- Lakes & Ponds
- Preservation Area
- Municipal Boundaries

LEBANON BOROUGH

1 inch = 0.18 miles



Exhibit F. Highlands Open Waters

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Riparian Area
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

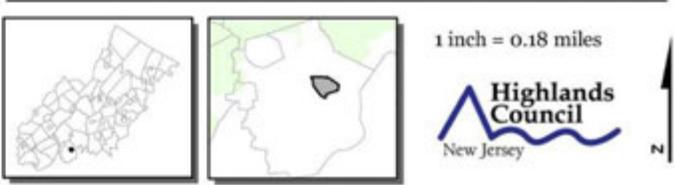
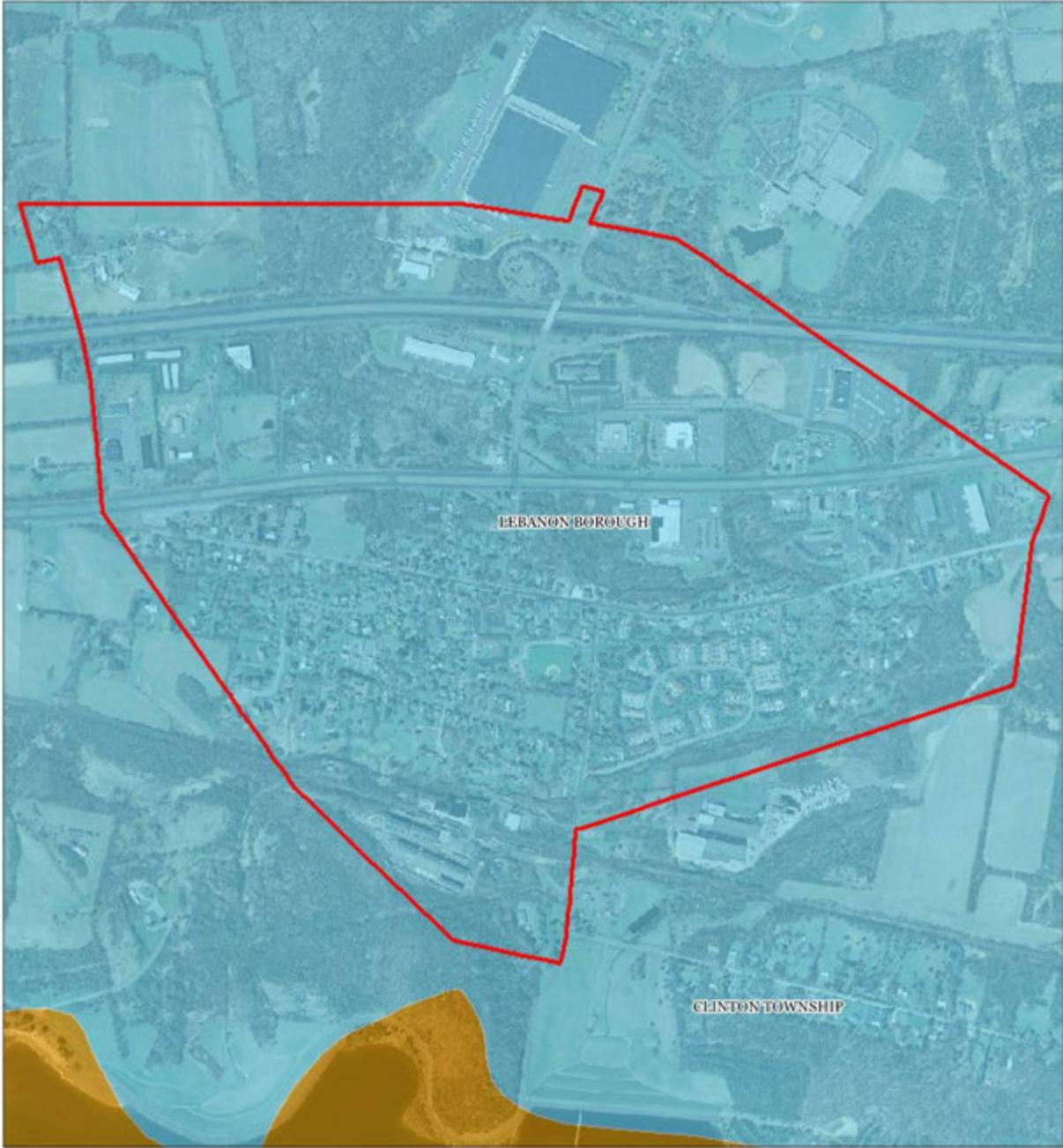


Exhibit G. Highlands Riparian Areas

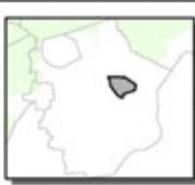
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Watershed Values by HUC14 Subwatershed

- Low*
- Moderate*
- High*
- Preservation Area
- Municipal Boundaries

LEBANON BOROUGH

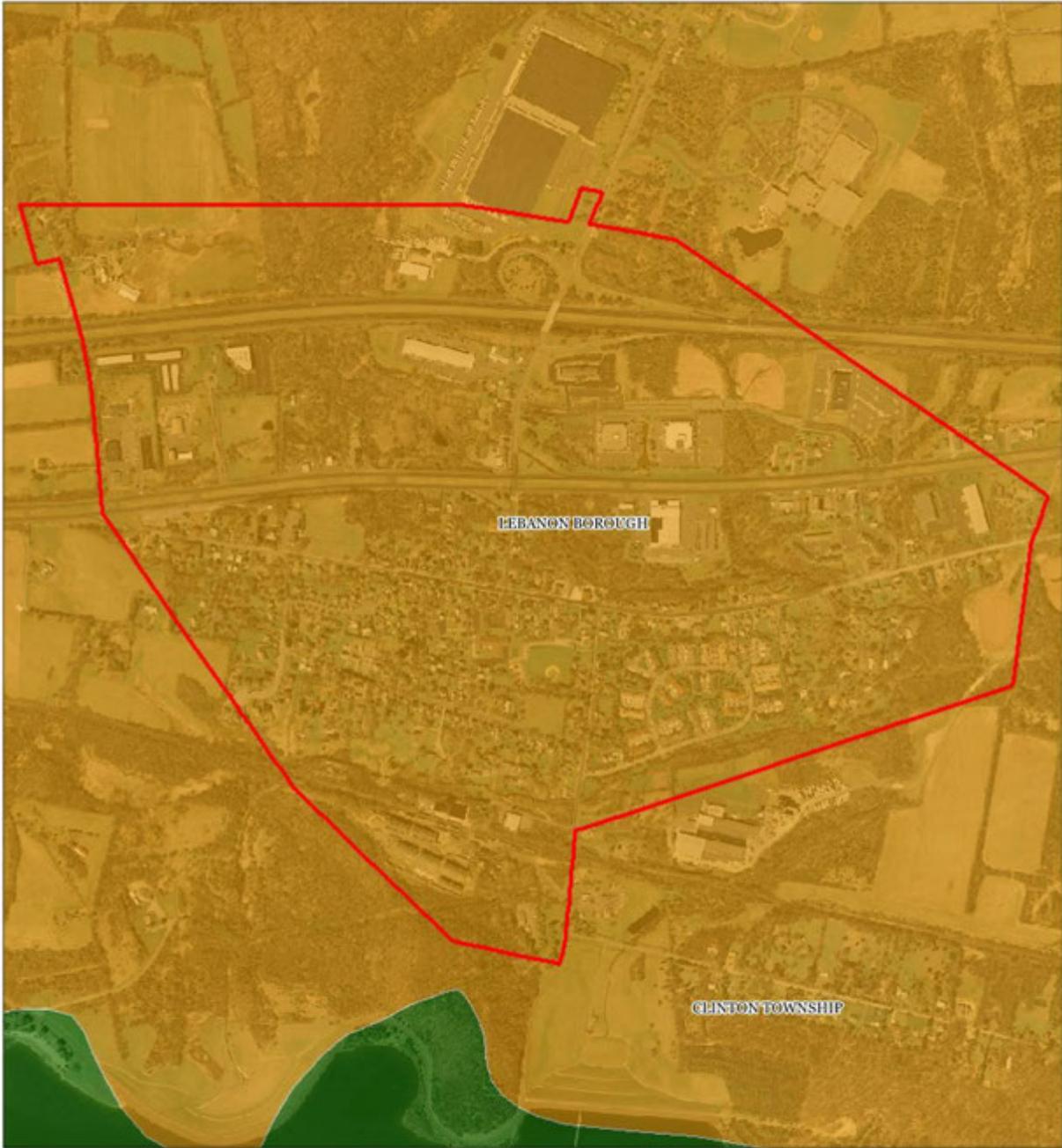
1 inch = 0.18 miles



N

Exhibit H. Watershed Values

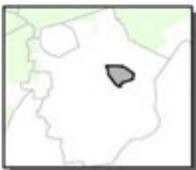
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Riparian Integrity by HUC14 Subwatershed

-  *Low*
-  *Moderate*
-  *High*
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

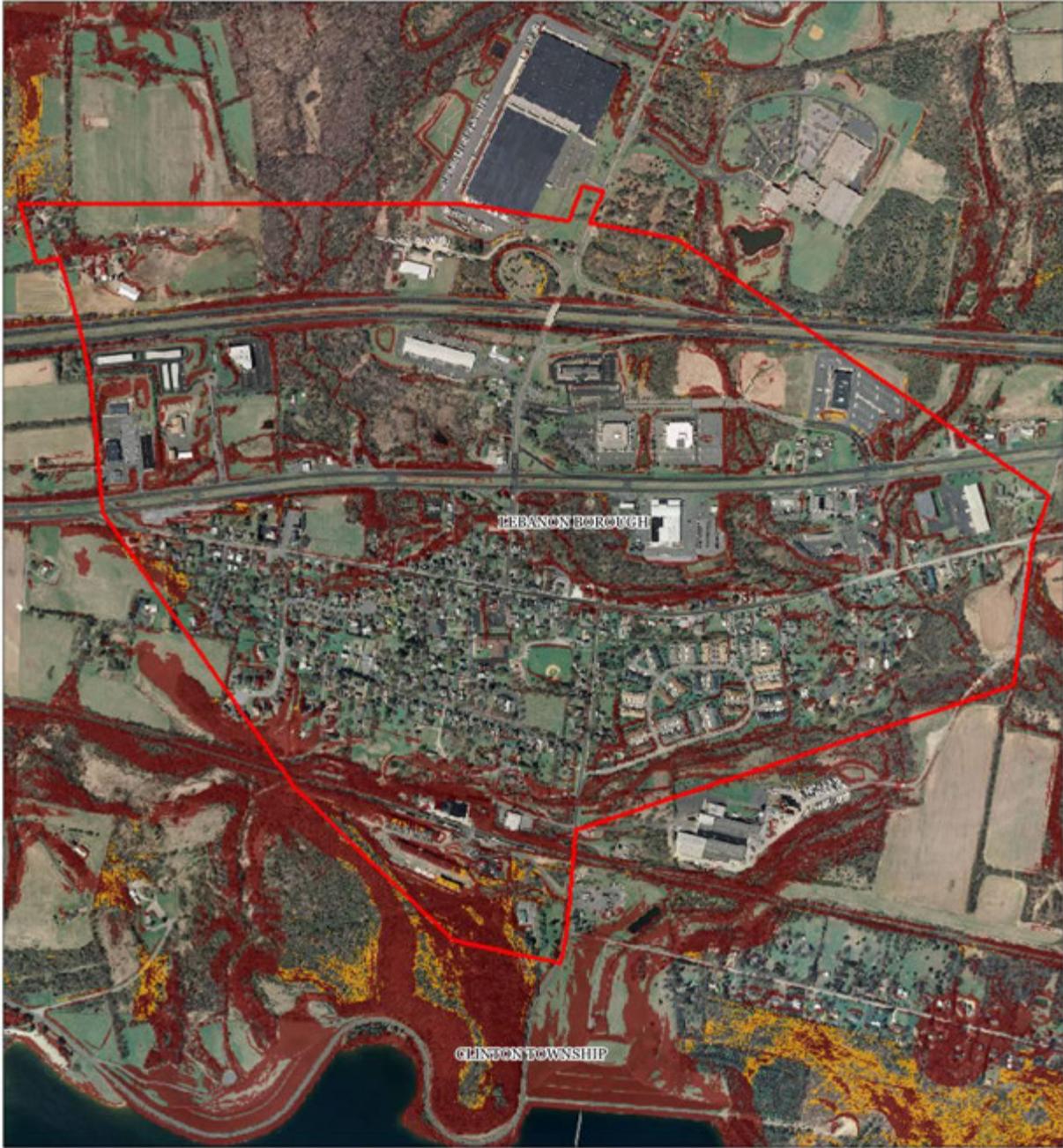


1 inch = 0.18 miles



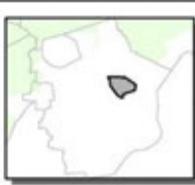
Exhibit I. Riparian Integrity

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- Steep Slopes
-  Moderate
 -  Severe
 -  Preservation Area
 -  Municipal Boundaries

LEBANON BOROUGH



1 inch = 0.18 miles



Highlands Council
New Jersey

Exhibit J. Steep Slope Protection Areas

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Critical Wildlife Habitat
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

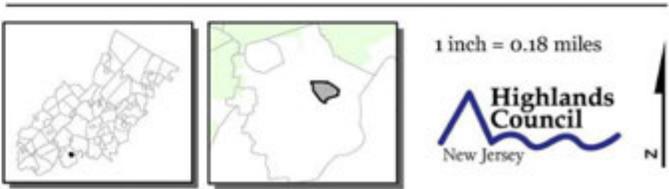
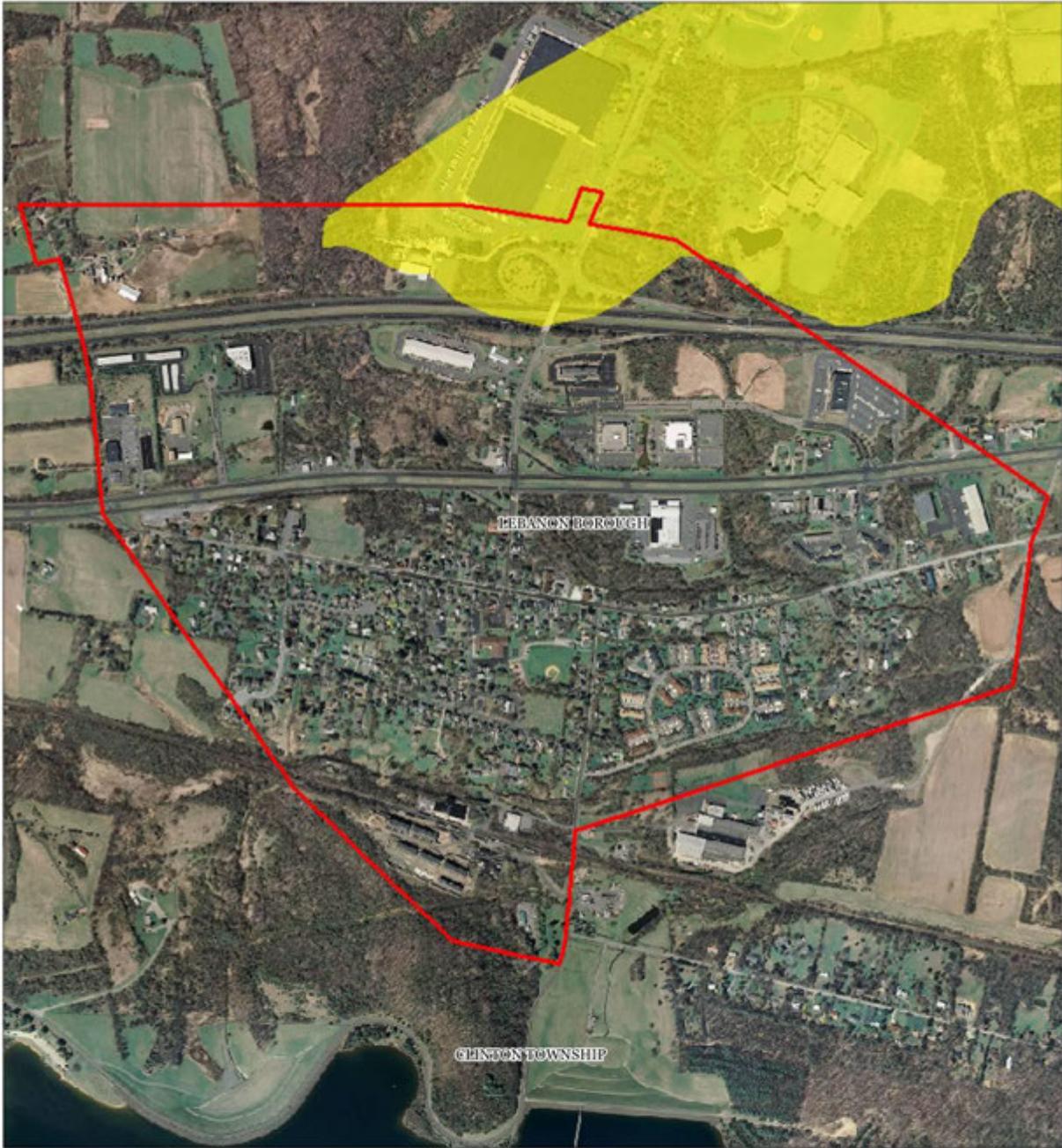


Exhibit K. Critical Wildlife Habitat

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Carbonate Rock Area
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

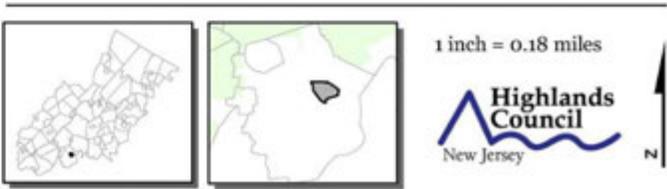
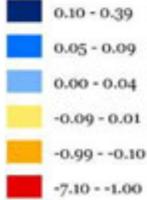


Exhibit L. Carbonate Rock Areas

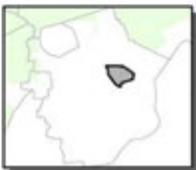
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Net Water Availability by HUC14 Subwatershed
Million Gallons Per Day (MGD)



 Preservation Area
 Municipal Boundaries



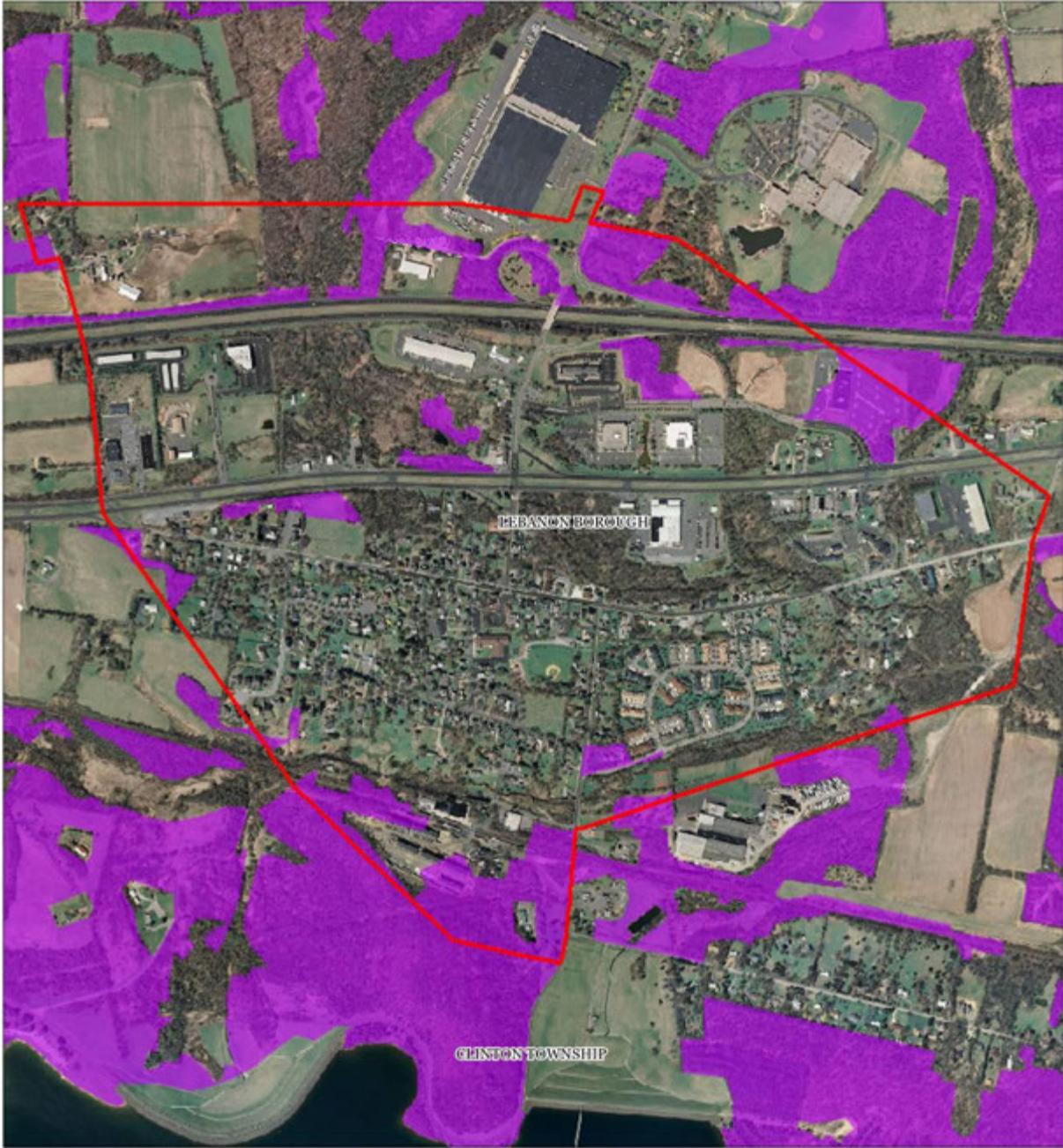
1 inch = 0.18 miles



LEBANON BOROUGH

Exhibit M. Net Water Availability

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Prime Ground Water Recharge Areas
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

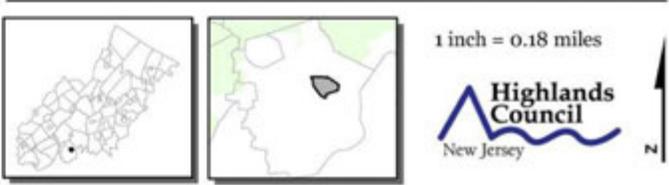


Exhibit N. Prime Ground Water Recharge Areas

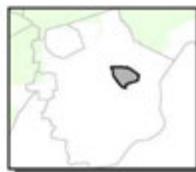
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Impaired Waters Overall Assessment by HUC14 Subwatershed

LEBANON BOROUGH

- Non Impacted*
- Insufficient Data Available*
- Moderate*
- Water Quality Impaired*
- Preservation Area*
- Municipal Boundaries*

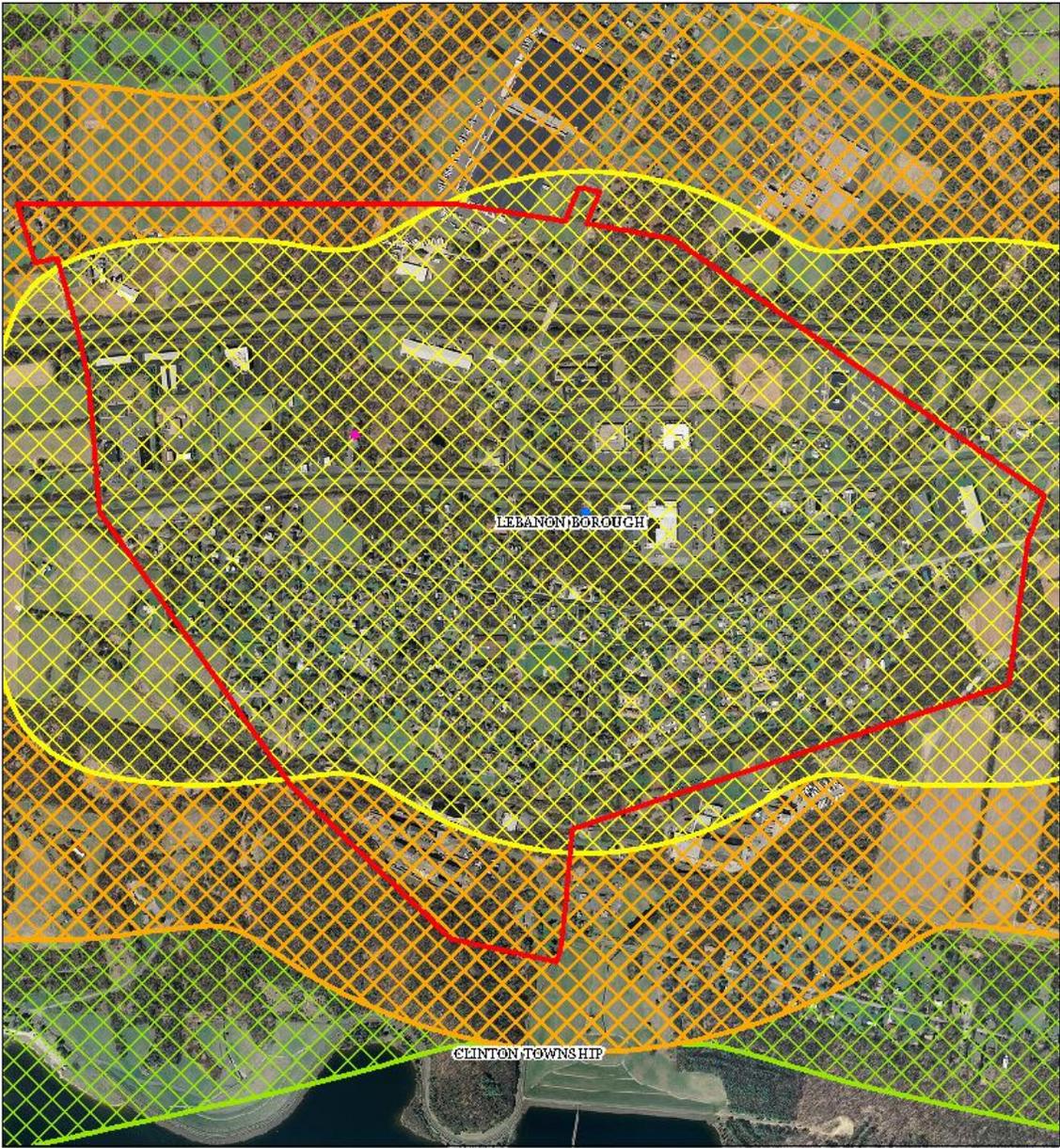


1 inch = 0.18 miles



Exhibit O. HUC 14's on NJDEP Impaired Waters List

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- Public Community Wells
 - Public Non-Community Wells
- Wellhead Protection Areas
-  2-Year Tier
 -  5-Year Tier
 -  12-Year Tier
-  Preservation Area
 -  Municipal Boundaries

LEBANON BOROUGH

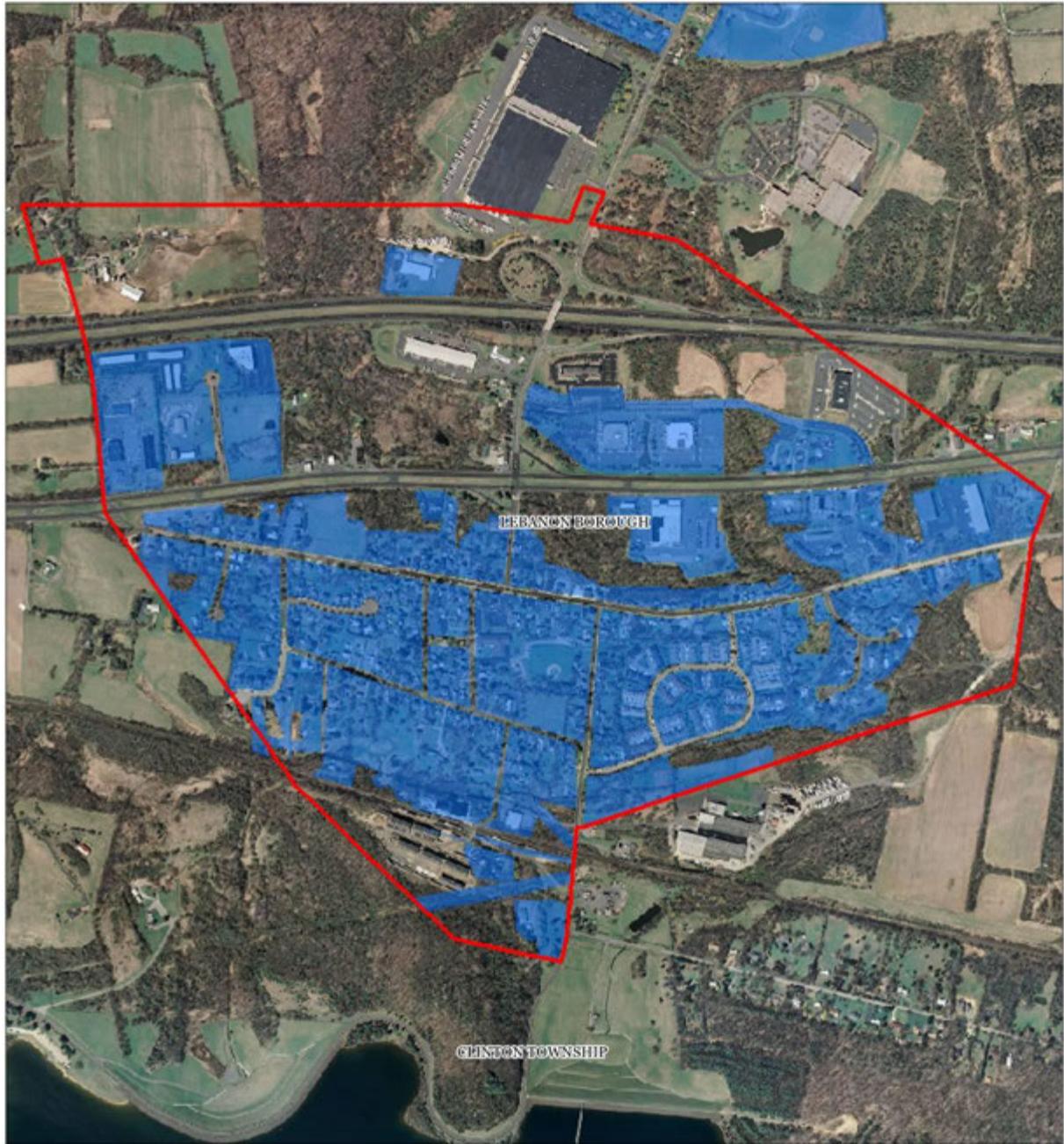
1 inch = 0.18 miles





Exhibit P. Well H Areas

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Public Community Water Systems
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

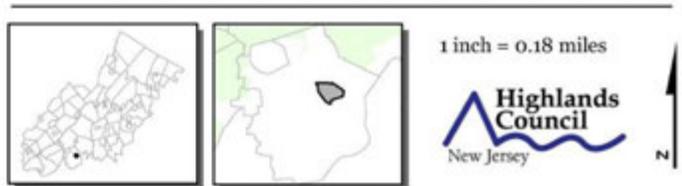
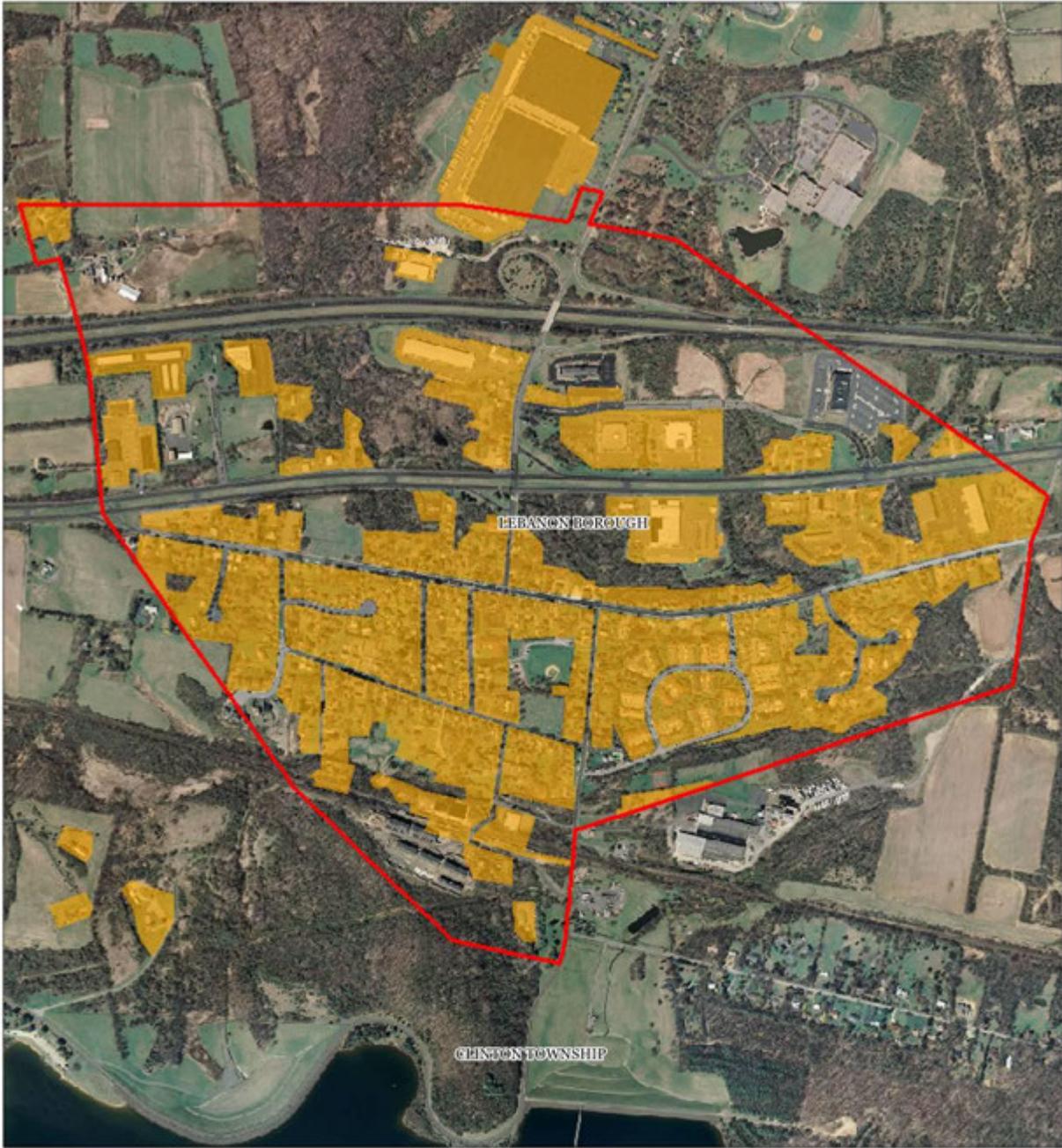


Exhibit Q. Public Community Water Systems

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



Highlands Domestic Sewerage Facilities

-  Existing Area Served
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

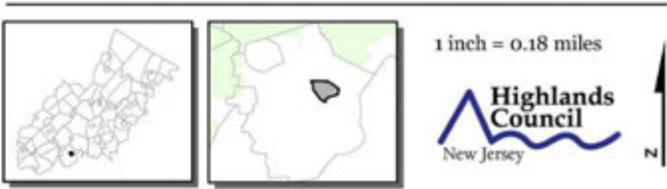
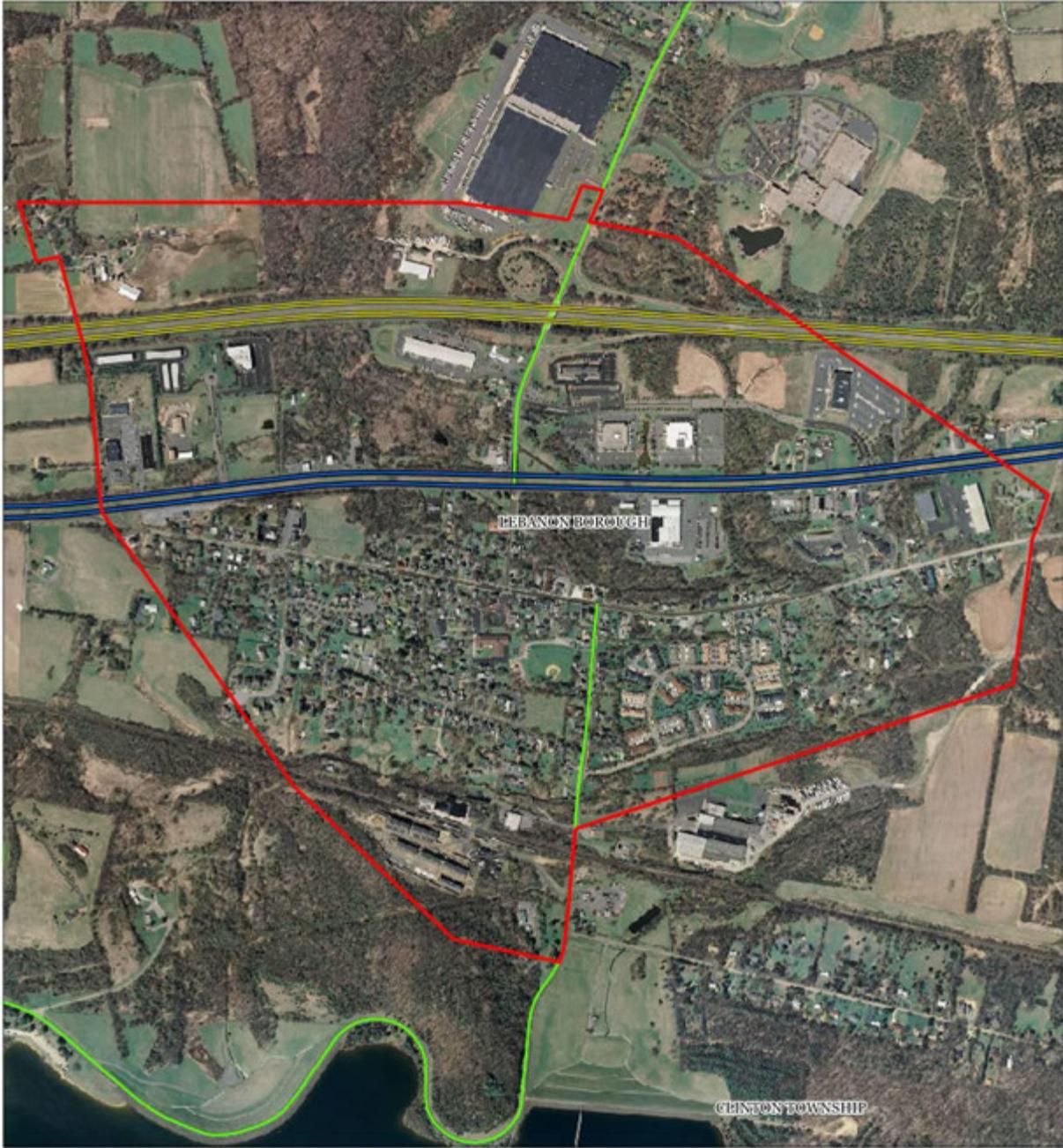


Exhibit R. Highlands Domestic Sewerage Facilities

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

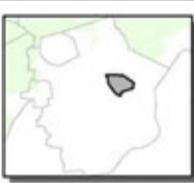


Roadway Network

-  Interstate Highways
-  U.S. Routes
-  State Routes
-  County Routes
-  Local Routes

-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

1 inch = 0.18 miles





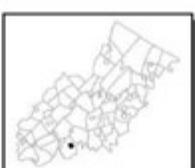
Exhibit S. Highlands Roadway Network

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- | | |
|--------------------------------|----------------------|
| Rail Network | Rail Stations |
| Boonton Line | Park and Ride Sites |
| Main Line & Bergen County Line | Private Bus Lines |
| Morris and Essex Line | NJ Transit Bus Lines |
| Raritan Valley Line | Airports |
| Freight Rail Lines | |
| Freight Rail Lines | |
| Abandoned Freight Rail | |

LEBANON BOROUGH

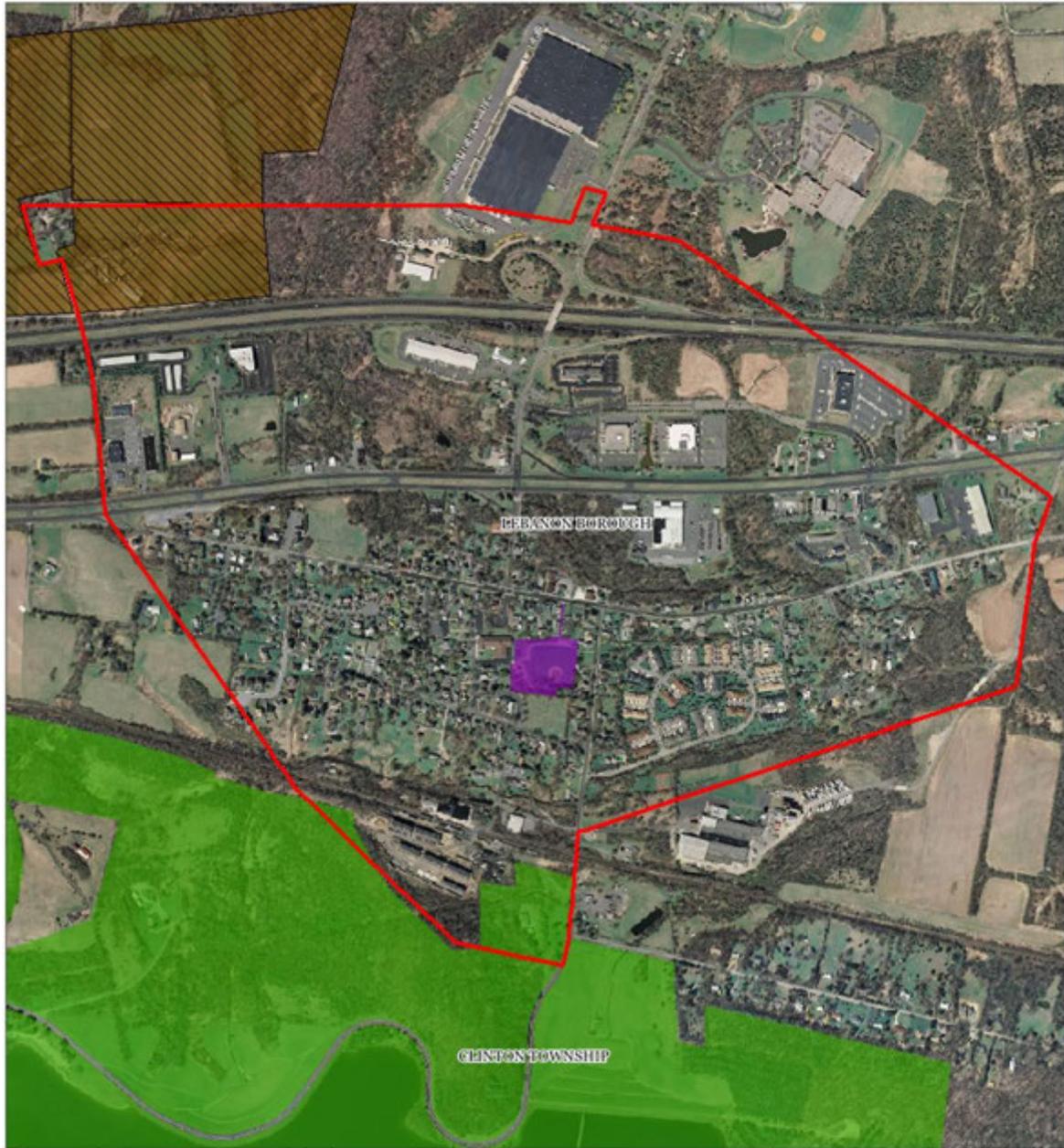



1 inch = 0.18 miles



Exhibit T. Highlands Transit Network

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- | Conservation Easements | Preserved Lands |
|------------------------|-------------------------------|
| Green Acres | Federal Open Space |
| SADC Easements | State Open Space |
| SADC Final | County Open Space |
| SADC 8 Year | Municipal Open Space |
| SADC Preserved | Non-Profit/Private Open Space |
| Municipal Boundaries | Water Supply Watershed Lands |
| Preservation Area | Preserved Farmland |

LEBANON BOROUGH

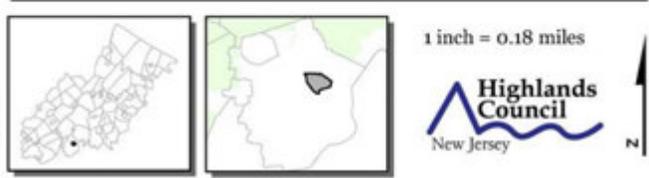


Exhibit U. Preserved Lands

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- Conservation Priority Area
-  Moderate
 -  High
 -  Preservation Area
 -  Municipal Boundaries

LEBANON BOROUGH

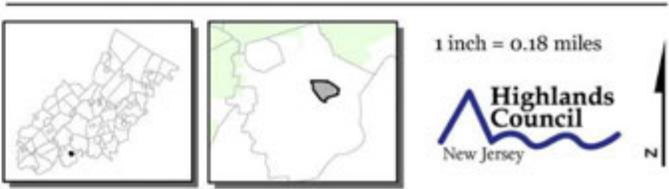
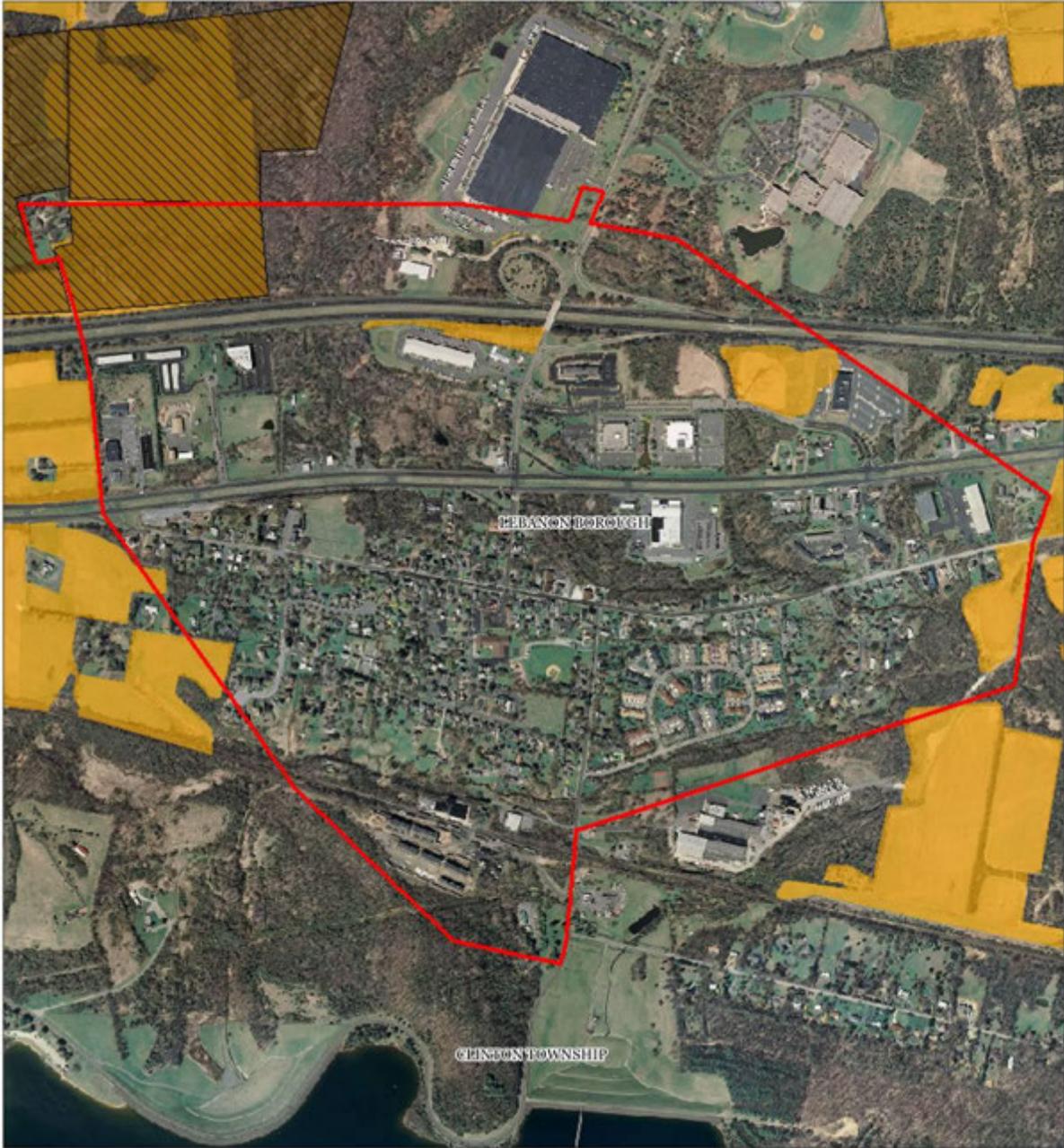


Exhibit V. Highlands Conservation Priority Areas

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

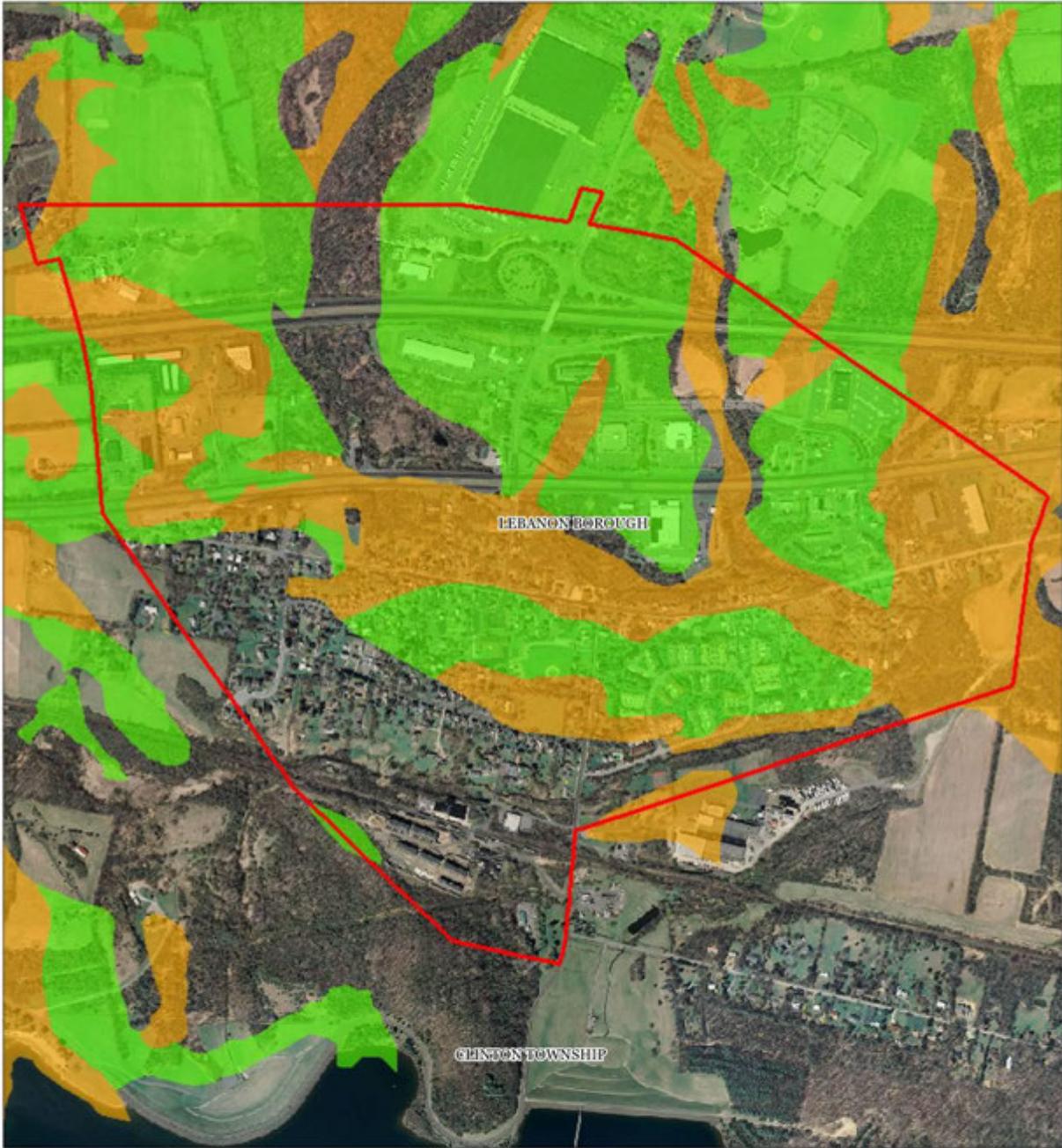


LEBANON BOROUGH



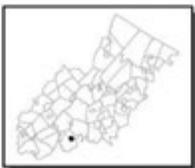
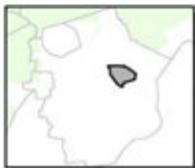
Exhibit W. Preserved Farms, SADC Easements, All Agricultural Uses

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- Important Farmland Soils**
- Prime Farmland
 - Farmland of Local Importance
 - Farmland of Statewide Importance
 - Farmland of Unique Importance
 - Preservation Area
 - Municipal Boundaries

LEBANON BOROUGH

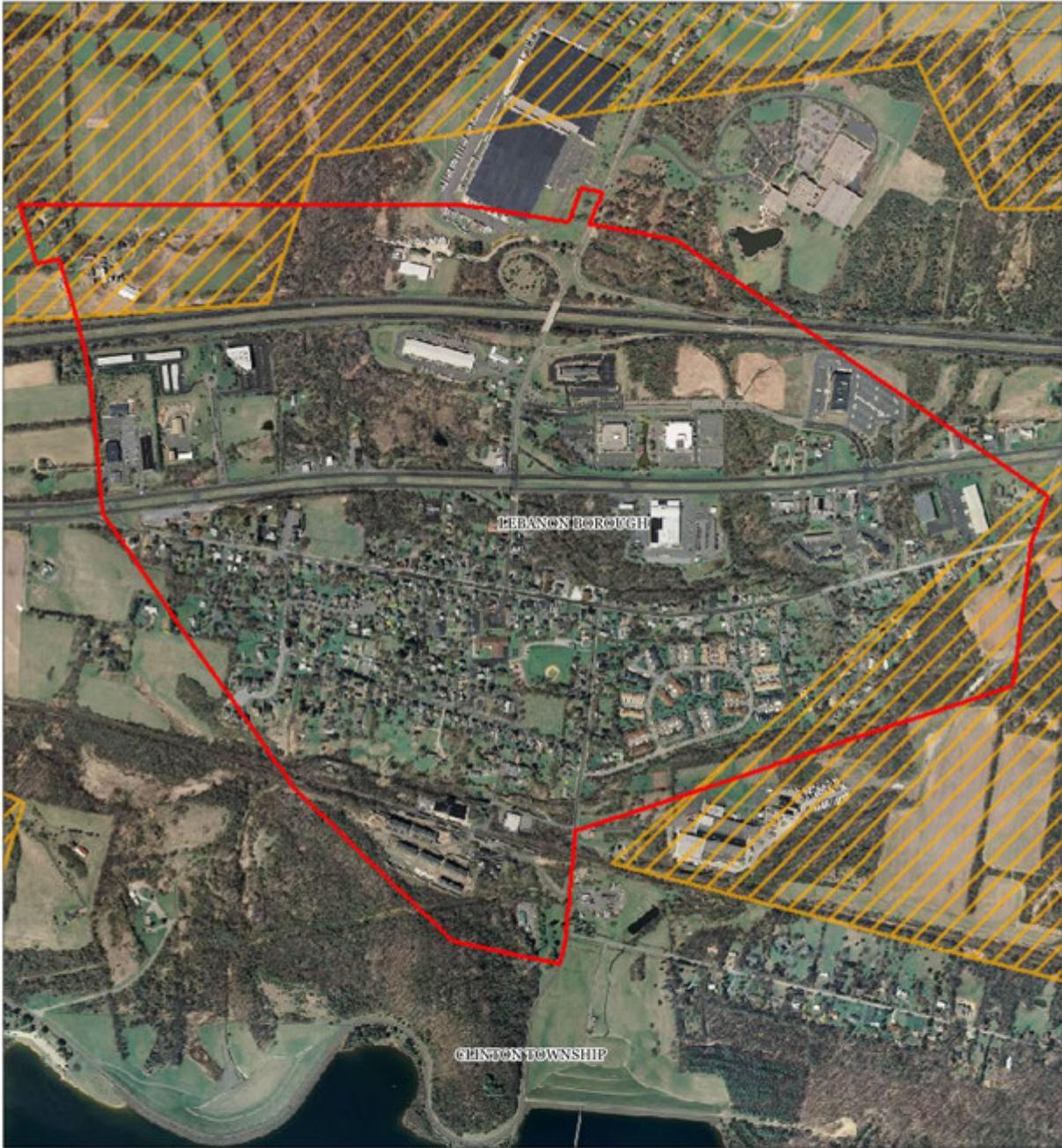



1 inch = 0.18 miles



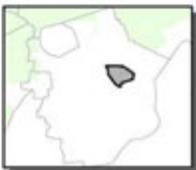
Exhibit X. Important Farmland Soils

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Agricultural Resource Area
-  Preservation Area
-  Municipal Boundaries

LEBANON BOROUGH

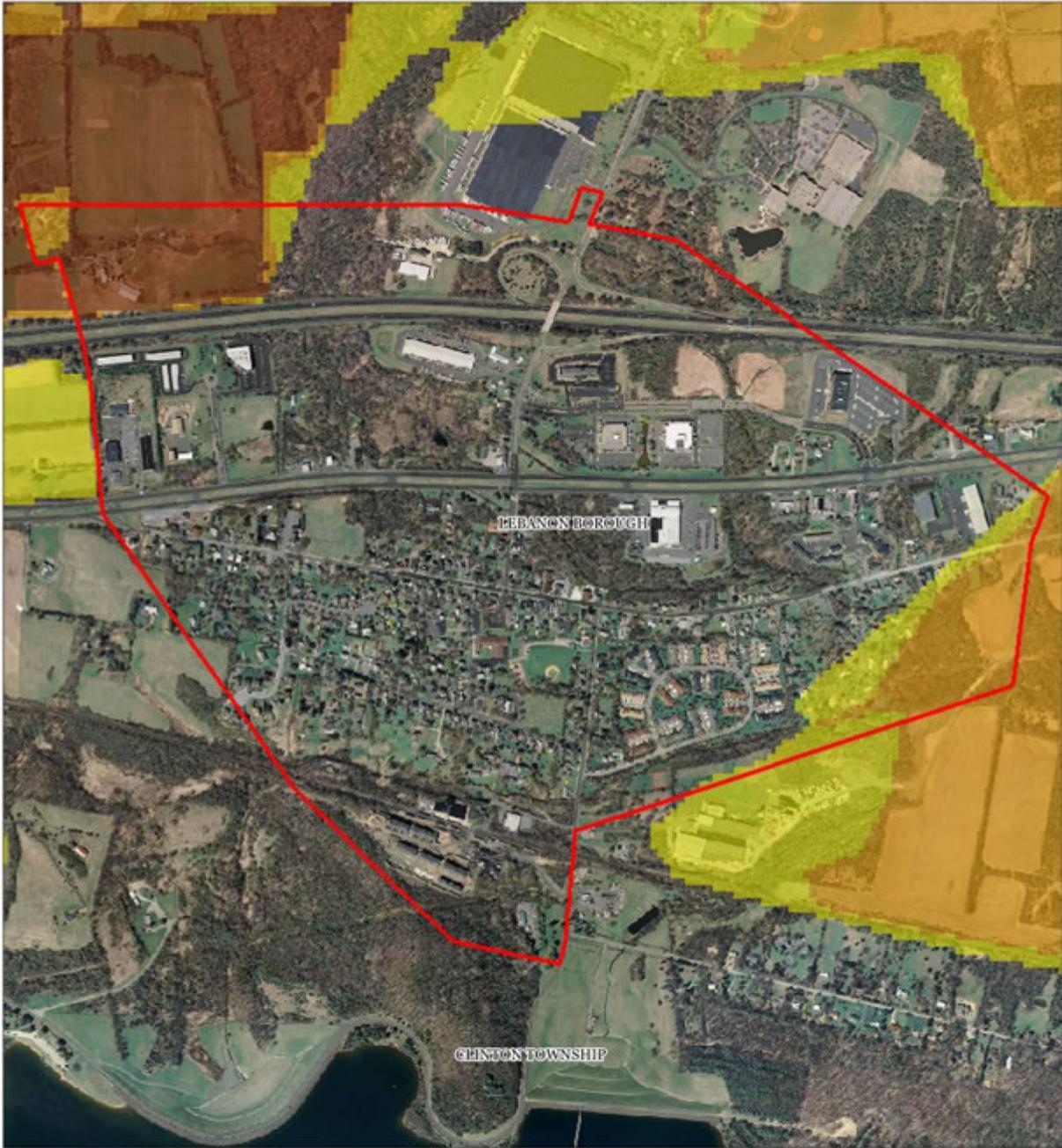


1 inch = 0.18 miles



Exhibit Y. Agricultural Resource Areas

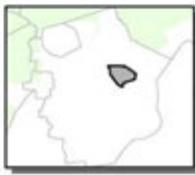
**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



- Agricultural Priority Area**
-  *Low*
 -  *Moderate*
 -  *High*
 -  Preservation Area
 -  Municipal Boundaries

LEBANON BOROUGH

1 inch = 0.18 miles

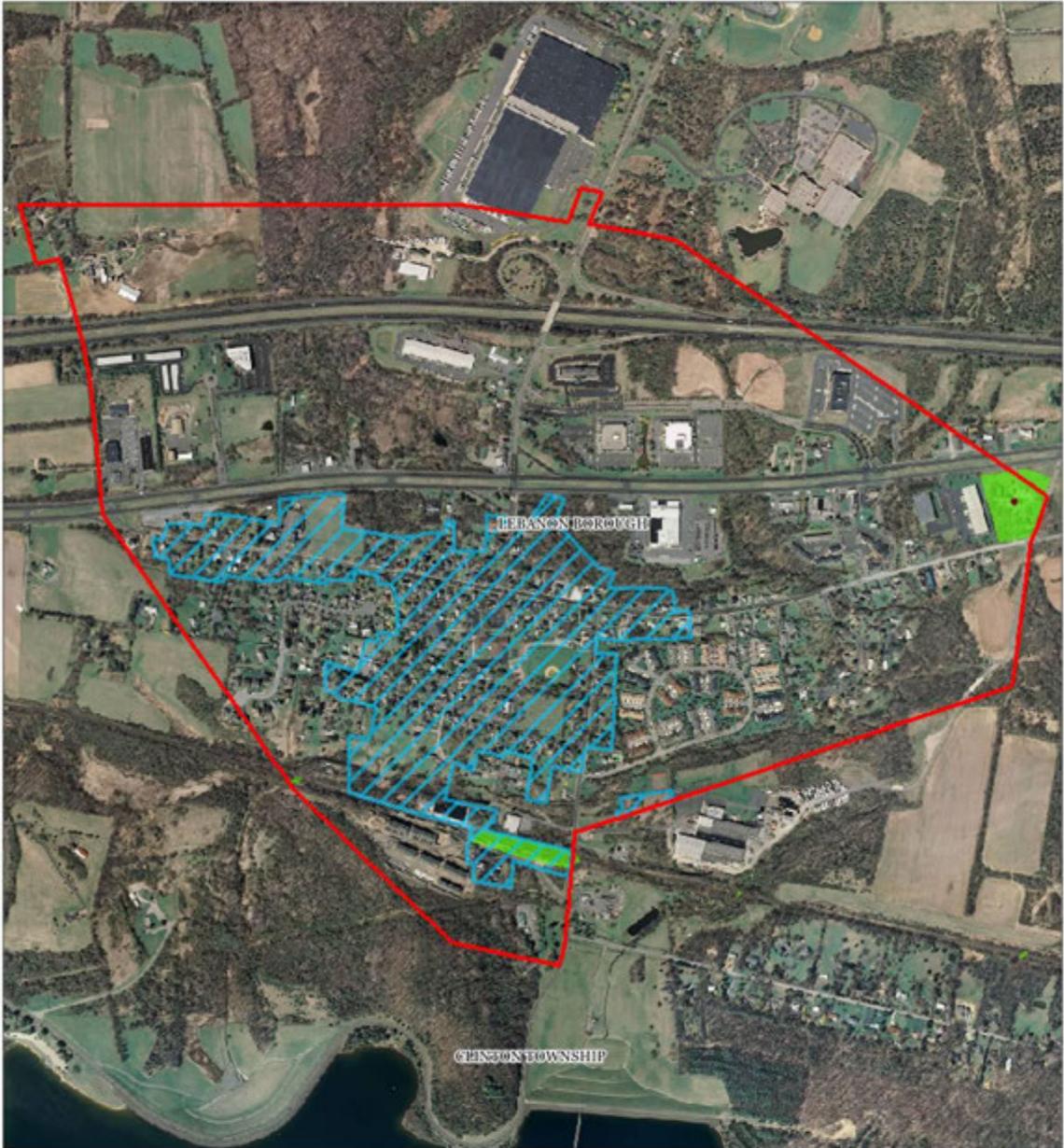


Highlands Council
New Jersey



Exhibit Z. Highlands Agricultural Priority Areas

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Preservation Area
-  Municipal Boundaries
-  Archaeological Grids (1 sqmi)
-  NJ Historic Districts
-  Historic Property Points
-  Historic Property Polygons

LEBANON BOROUGH

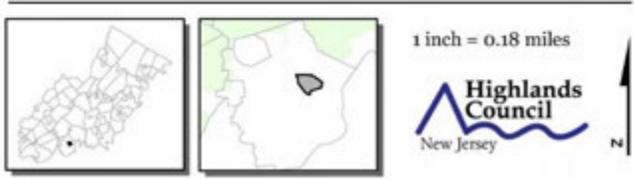
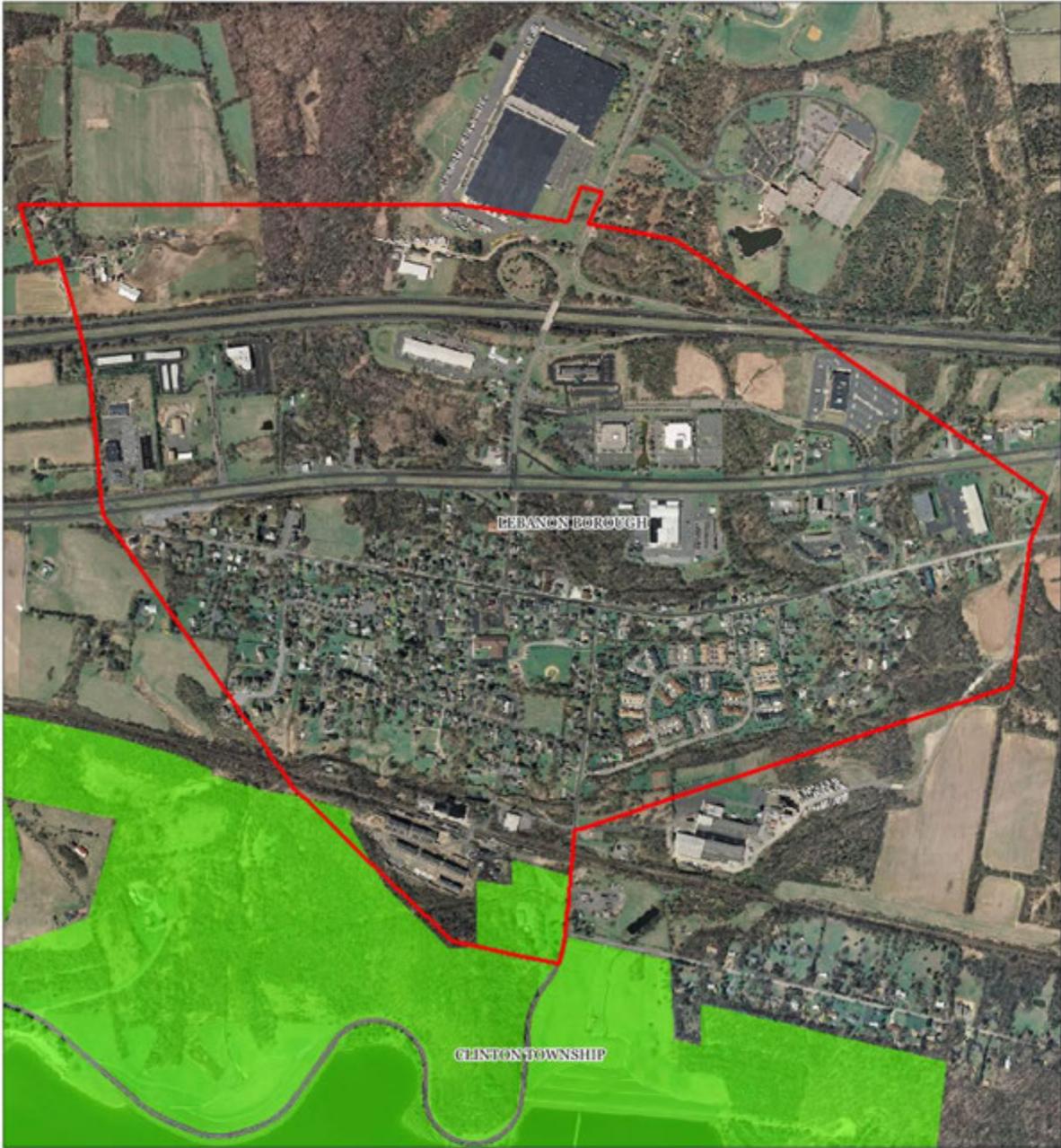


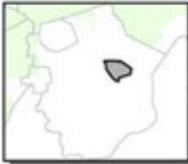
Exhibit AA. Historic, Cultural and Archeological Resources Inventory

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**



-  Scenic Resources
-  Municipal Boundaries
-  Preservation Area

LEBANON BOROUGH



1 inch = 0.18 miles



Exhibit BB. Baseline Scenic Resources Inventory

**BOROUGH OF LEBANON
HIGHLANDS PLANNING AREA MASTER PLAN ELEMENT**

Exhibit CC. SDRP Planning Areas (Note: Exhibit Updated November 15, 2010)

State Planning Areas & Designated Centers



Legend

- Preservation Area
- Municipal Boundaries
- Interstate Highways
- U.S. Routes
- State Routes
- County Routes
- Designated Centers*

State Planning Areas*

- METROPOLITAN (PA1)
- SUBURBAN (PA2)
- FRINGE (PA3)
- RURAL (PA4)
- RURAL ENVIRONMENTALLY SENSITIVE (PA42)
- ENVIRONMENTALLY SENSITIVE (PA5)
- PARK (PA6)
- FEDERAL PARK (PA7)
- STATE PARK (PA8)
- WATER (PA11)
- MILITARY (PA12)

1 inch equals 0.18 miles

* All designated centers expired on 1/7/2008 except Byram (expires 5/19/2010), Stanhope (expires 10/16/2008), and Sparta and Vernon (expire 7/16/2009). Center designation may be redesignated by the State Planning Commission and the Highlands Council. State Planning Areas are from the State Development and Redevelopment Plan.





Model Highlands Planning Area Land Use Ordinance for Municipalities

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

FINAL:
November 2010

HIGHLANDS PLANNING AREA LAND USE ORDINANCE

A Supplement to the Land Use Ordinances of the

BOROUGH OF LEBANON

HUNTERDON 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: _____, 2010

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

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
Borough of Lebanon, Hunterdon County, New Jersey

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HIGHLANDS PLANNING AREA LAND USE ORDINANCE

Borough of Lebanon, Hunterdon County, New Jersey

ARTICLE 1. TITLE, PURPOSE, SCOPE

§ 1.1 SHORT TITLE

This Ordinance shall be known and cited as the “Borough of Lebanon Highlands Planning Area Land Use Ordinance.”

§ 1.2 PURPOSE

The purpose of this Ordinance is to effectuate the policies, goals and objectives of the Borough 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 all lands located within the Borough. The municipality lies fully within the Planning Area of the New Jersey Highlands Region. As a conforming municipality, the applicable provisions of the Borough 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 land uses, development and redevelopment activities, and management and protection of resources, including but not limited to water resources, natural resources, agricultural resources, and scenic resources. 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. [*Details as to Ordinance applicability, exclusions and Highlands Act exemptions are provided at Article 2.*]

§ 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.

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
Borough of Lebanon, Hunterdon County, New Jersey

ARTICLE 2. APPLICABILITY

§ 2.1 APPLICABILITY

The requirements of the Highlands Planning Area Land Use Ordinance shall apply to the use and development of all lands located within the Borough. Development review provisions shall apply in the case of any project for which a permit or approval from, or a determination by, the municipality is required, including any Application for Development as defined under the MLUL (see Definitions, § 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

- A. This Ordinance shall not apply to any improvement to a single-family dwelling in lawful existence as of the effective date of this Ordinance, provided that such improvement: a) is related and dedicated solely to the single-family residential use of either the dwelling or the property upon which it is situated; b) results in the ultimate disturbance of less than one (1) acre of land; and c) produces a cumulative impervious surface area of less than one-quarter ($\frac{1}{4}$) acre; where the phrases “ultimate disturbance” and “cumulative impervious surface area” are defined as provided at § 3.2.
- B. 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.
- C. This Ordinance shall not apply to the repair or maintenance of any building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit repairs or maintenance activities that alter the footprint of such building or structure.
- D. This Ordinance shall not apply to the interior improvement, rehabilitation, or modification of any building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit activities that alter the footprint of such building or structure.
- E. Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to any change in use of a building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit activities that alter the footprint of such building or structure.
- F. This Ordinance shall not apply to the attachment of signs or other ornamentation to any building or structure, to the installation of windows, doors, chimneys, vents, shafts, heating, ventilation, or air conditioning equipment, or to any other such improvement to a building or structure provided it occupies a surface area footprint of not more than 50 square feet. This exclusion shall not be construed to permit ultimate disturbance or cumulative impervious surface in excess of that provided at A., above, for single-family dwellings.
- G. 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

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

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.

§ 2.2 EXEMPTIONS

The activities, improvements and development projects listed below are herewith exempt from the provisions of this Ordinance, as specifically provided by the Highlands Act (at N.J.S.A. 13:20-28). These exemptions apply only to the specific activities, improvements and projects as described and listed herein, and with the exception of the exemption regarding federal military installations (no. 16), shall not be construed to apply across-the-board to any lot, tract or other division of land, whether existing or proposed at the time of passage of the Highlands Act. Neither shall such exemptions 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. All exemptions apply to the Planning Area with the exception of exemptions number 3 and number 17, which apply only to the Preservation Area.

1. The construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of the Highlands Act (August 10, 2004) or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004. (Note: the Highlands Act defines "an immediate family member" as 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").
2. The construction of a single family dwelling on a lot in existence on the date of enactment of the Highlands Act (August 10, 2004), provided that the construction does not result 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. A Major Highlands Development that received, on or before March 29, 2004:
 - a. One of the following approvals pursuant to the MLUL:
 - i. Preliminary or final site plan approval;
 - ii. Final municipal building or construction permit;
 - iii. Minor subdivision approval where no subsequent site plan approval is required;
 - iv. Final subdivision approval where no subsequent site plan approval is required; or
 - v. Preliminary subdivision approval where no subsequent site plan approval is required; and

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
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- b. At least one of the following permits from the NJDEP, if applicable to the proposed Major Highlands Development:
 - i. A permit or certification pursuant to the “Water Supply Management Act,” P.L.1981, c.262 (C.58:1A-1 et seq.);
 - ii. A water extension permit or other approval or authorization pursuant to the “Safe Drinking Water Act,” P.L.1977, c.224 (C.58:12A-1 et seq.);
 - iii. A certification or other approval or authorization issued pursuant to the “The Realty Improvement Sewerage and Facilities Act (1954),” P.L.1954, c.199 (C.58:11-23 et seq.); or
 - iv. A treatment works approval pursuant to the “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.); or
- c. One of the following permits from the NJDEP, if applicable to the proposed Major Highlands Development, and if the proposed Major Highlands Development does not require one of the permits listed in subparagraphs (i) through (iv) of subparagraph (b) of this paragraph:
 - i. A permit or other approval or authorization issued pursuant to the “Freshwater Wetlands Protection Act,” P.L.1987, c.156 (C.13:9B-1 et seq.); or
 - ii. A permit or other approval or authorization issued pursuant to the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.).

The exemption provided in this paragraph shall apply only to the land area and the scope of the Major Highlands Development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph; shall expire if any of those qualifying approvals expire; and shall be deemed to have expired if construction beyond site preparation did not commence within three years after the date of enactment of the Highlands Act (August 10, 2004).

- 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.
 - 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 coincide with the date of enactment of the Highlands Act, or August 10, 2004.
 - 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.

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
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5. Any improvement to a single family dwelling in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system.
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.
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.
8. The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.
9. The routine maintenance and operations, rehabilitation, preservation, reconstruction or repair of transportation or infrastructure systems by a state entity or local government unit, provided that the activity is consistent with the goals and purposes of the Highlands Act and does not result in the construction of any new through-capacity travel lanes.
10. The construction of transportation safety projects and bicycle and pedestrian facilities by a state entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes.
11. The routine maintenance and operations, rehabilitation, preservation, reconstruction, repair or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of the Highlands Act.
12. The reactivation of rail lines and rail beds existing on the date of enactment of the Highlands Act (August 10, 2004).
13. The construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005.
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.
15. The remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.).
16. Any lands of a federal military installation existing on the date of enactment of the Highlands Act (August 10, 2004) that lie within the Highlands Region.
17. A Major Highlands Development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to the "State Development and Redevelopment Plan," P.L.1985, c.398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 was the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality. The

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
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exemption provided pursuant to this paragraph shall expire if construction beyond site preparation has not commenced within three years after receiving all final approvals required pursuant to the MLUL.

§ 2.3 EXEMPTION DETERMINATIONS

Any applicant seeking approval of a permit or development application involving any activity, improvement, or development project listed above as a Highlands Act Exemption, shall, as a condition of completeness where applicable, and in any case prior to review of such application by the applicable Board or other municipal authority, provide sufficient proofs, as set forth under § 9.1.2 of this Ordinance, that the proposed activity, improvement, or development project qualifies as a Highlands Act Exemption.

§ 2.4 PRIOR DEVELOPMENT APPROVALS

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 § 2.5 below). This provision shall not be construed to limit the Borough's right to grant extensions of prior development approvals, in accordance with all applicable provisions of the MLUL.

§ 2.5 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."

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
Borough of Lebanon, Hunterdon County, New Jersey

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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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.

Cluster/Conservation Design Development – A development design technique where principal buildings and structures are grouped together on a portion of the Cluster Project Area, while the remaining land area is permanently deed-restricted in agricultural use, for conservation of environmental resources, or as open space for environmental protection including public recreational use.

Cluster/Conservation Design Development Guidelines – Guidelines for cluster/conservation design development provided by the Highlands Council to guide municipalities in implementing cluster development projects and in assisting in local development review and Highlands Project Review.

Cluster Project Area – All of the individual parcels from which development is clustered including the area set aside for preservation and the area set aside for development.

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.

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.

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
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Deforestation – The conversion of forested areas to non-forested areas, whether for use as urban land, pasture 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.

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.

Development Set Aside of Cluster Project Area – All of the individual parcels within the area set aside for residential development including the infrastructure, open space, and utilities necessary to support the development pursuant to the requirements of § 8.1.5.

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.

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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.

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.

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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).

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.

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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 Borough Environmental Resource Inventory.

Highlands Open Waters Buffer –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, as provided by NJDEP.

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 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.

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.

HIGHLANDS PLANNING AREA LAND USE ORDINANCE
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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) 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).

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

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.

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.

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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 Borough.

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).

Preservation Set Aside of Cluster Project Area – All of the individual parcels within the area set aside for preservation that must be deed-restricted against further subdivision pursuant to the requirements of § 8.1.4.

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.

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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.

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.

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Riparian Area Integrity Score – The value (High, Moderate, Low) of Highlands Riparian Areas within each Highlands HUC14 subwatershed as established by the Highlands Council through an analysis of the relative amount of impervious cover, agricultural land use, density of roadway stream-crossings, vegetative condition, and habitat for wetland/water-dependent, threatened, and endangered wildlife species of the Riparian Areas (see Borough Environmental Resource Inventory).

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.

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.

SIC – Standard Industrial Classification

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.

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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.

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.

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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.

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 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 Planning Area

The Borough Master Plan incorporates the Highlands Planning Area, inclusive of the goals applicable to it, as an integral component of the planning and land use policies of the municipality.

§ 4.1.2 Planning Area Adopted

The Planning Area, to the full extent of its limits within the Borough (being the entirety of the municipality), is herewith adopted and established as an overlay to municipal zoning.

§ 4.2 HIGHLANDS ZONES AND SUB-ZONES

The Highlands RMP establishes three primary zones (the Protection Zone, Conservation Zone and Existing Community Zone) and four sub-zones (Wildlife Management Sub-Zone, Conservation Zone–Environmentally Constrained Sub-Zone, Existing Community Zone–Environmentally Constrained Sub-Zone and Lake Community Sub-Zone) 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 Borough 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 Borough Master Plan, the following Highlands Zones and Sub-Zones are herewith established as overlays to municipal zoning:

§ 4.2.1 Protection Zone

The Protection Zone contains the highest quality natural resource value lands of the Highlands Region. 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.

§ 4.2.2 Conservation Zone

The Conservation Zone consists of areas with significant agricultural lands interspersed with associated woodlands and environmental features that should be preserved when possible. The Conservation Zone is intended primarily for agricultural use and development, including ancillary and supporting uses and activities. Non-agricultural development activities will be limited in area and intensity due to infrastructure constraints

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and resource protection goals. Where non-agricultural development does occur it must be compatible with agricultural uses.

§ 4.2.3 Conservation Zone – Environmentally Constrained Sub-Zone

The Conservation Zone–Environmentally Constrained Sub-Zone consists of lands containing significant environmental features within the Conservation Zone that should be preserved and protected from non-agricultural development. Development activities will be limited and subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

§ 4.2.4 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.

§ 4.2.5 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.

§ 4.3 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 Borough Master Plan incorporates each of these areas to the extent of their physical limits within the municipality, 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 Borough Master Plan, the following Highlands Resource Areas and Special Protection Areas are herewith established as overlays to municipal zoning:

§ 4.3.1 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 Borough Environmental Resource Inventory.

§ 4.3.2 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.

§ 4.3.3 Steep Slope Protection Area

The Steep Slope Protection Area is comprised of those portions of the municipality encompassing a minimum of 5,000 square feet of contiguous area, which are characterized either by grades of 15% or greater,

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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.

§ 4.3.4 Critical Habitat

Critical Habitat is comprised of all land areas designated as: Critical Wildlife Habitat, Significant Natural Areas, and Vernal Pools, including Vernal Pool Buffers. Of these, the only category located within the Borough of Lebanon is Critical Wildlife Habitat. 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.

§ 4.3.5 Carbonate Rock Areas

Carbonate Rock Areas consist of those portions of the municipality 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.

§ 4.3.6 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.

§ 4.3.7 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.
- 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.

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§ 4.3.8 Agricultural Resource Area

The Agricultural Resource Area consists of those areas of the most concentrated and contiguous agricultural uses as determined based on the prevalence of active farms, contiguous farming units of 250 acres or more, and the presence of Important Farmland Soils.

§ 4.3.9 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 DISTRICT MAPS

All Highlands Districts as set forth under § 4.1 through § 4.3, above, including the Planning Area (encompassing the whole of the municipality), all 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 Planning Area Land Use Ordinance:

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

Map entitled “Borough of Lebanon Highlands Planning Area, Highlands Zones and Sub-Zones,” dated ~~July 2, 2010~~October 25, 2010, depicting the Borough Highlands Planning Area (whole of municipality) with delineation of Highlands Zones and Sub-Zones as provided by the Highlands Council (Exhibit 1).

§ 4.4.2 Highlands Resource and Special Protection Areas

Series of Maps depicting the Resource and Special Protection Areas listed at § 4.3.1 through § 4.3.9 above, and also including related features and areas as discussed and defined in Article VI of this Ordinance; dated July 2, 2010 (unless otherwise specifically noted), as provided by the Highlands Council.

- A. **“Total Forest Area, Forest Subwatershed Integrity Areas.”** Map depicting that portion of the Borough designated as Total Forest Area and applicable Forest Subwatershed Integrity Areas (as defined at § 6.1); map denoted Exhibit 2.
- B. **“Highlands Open Waters, Watershed Resource Value Areas.”** Map depicting Highlands Open Waters located wholly or partially within the Borough (pursuant to § 4.3.1 above); and including Watershed Resource Value Areas (as defined at § 6.2.2); map dated November 15, 2010, denoted Exhibit 3.
- C. **“Highlands Riparian Area Riparian Subwatershed Integrity Areas.”** Map depicting Riparian Areas (pursuant to § 4.3.2 above) located within the Borough and including Riparian Subwatershed Integrity Areas (as defined at § 6.2.3); map denoted Exhibit 4.
- D. **“Steep Slope Protection Area.”** Map depicting those portions of the Borough having 5,000 square feet or more of contiguous surface area in steep slopes pursuant to § 4.3.3 above); map denoted Exhibit 5.
- E. **“Critical Wildlife Habitat.”** Map depicting those portions of the Borough designated as Critical Wildlife Habitat (pursuant to § 4.3.4 above); map denoted Exhibit 6.

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- F. ***“Carbonate Rock Area, Prime Ground Water Recharge Area, Wellhead Protection Areas.”*** Map depicting those portions of the Borough designated as Carbonate Rock Areas (pursuant to § 4.3.5 above); those portions of the Borough designated as Prime Ground Water Recharge Areas (pursuant to § 4.3.6 above); and the location of public water system wells within the Borough/Township/Town and the associated wellhead protection tiers surrounding them (pursuant to § 4.3.7 above); map denoted Exhibit 7.
- G. ***“Agricultural Resource Area.”*** Map depicting those lands of the Borough designated as Agricultural Resource Area (pursuant to §4.3.8 above); map denoted Exhibit 8.
- H. ***“Highlands Scenic Resources.”*** Map depicting properties located within the Borough that are listed in the Highlands Scenic Resources Inventory (pursuant to § 4.3.9 above); map [dated November 15, 2010](#), denoted Exhibit 9.

§ 4.5 INTERPRETATION OF DISTRICT MAPS BOUNDARY LINES

All Highlands 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 District maps and the boundary lines they specify.

§ 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 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 Borough Environmental Resource Inventory and in the Highlands Element of the Borough Master Plan.

§ 4.5.3 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 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 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

The permitted uses applicable to that portion of any municipal Zoning District overlain by the Highlands District classifications listed below shall be modified in accordance with the provisions that follow. In addition, 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.

- A. ***All Highlands Zones & Sub-Zones.*** Where the development of any new or expanded principal or accessory use that is permitted by the underlying municipal Zoning Ordinance is made physically infeasible due to the maximum density of development requirements at § 5.3, below, such use shall no longer apply as a permitted use. Where the septic system density allowance calculated pursuant to § 5.3 would permit a maximum of one (1) dwelling unit for a given parcel, for example, but the underlying Zoning Ordinance would permit construction of a multi-family project (such as townhomes or garden apartments) which by definition would contain more than one dwelling unit, the permitted use would be made physically infeasible and must no longer be considered a permitted use. This provision shall apply only to the extent that the Highlands Zone or Sub-Zone from which the density requirement derives, intersects with the affected underlying municipal Zoning District. Where the development type remains feasible, its status as a permitted use shall remain, provided that the applicable density allowances shall be those of § 5.3.
- B. ***Agricultural Resource Area.***
 - 1. Permitted principal uses shall be supplemented to include the agricultural and horticultural uses (defined at § 3.2) specified at § 6.10.3, below. Accessory uses permitted in conjunction with these uses shall include ancillary, incidental or otherwise related supporting uses and the accessory structures devoted to such uses.
 - 2. The permitted principal residential use for any underlying municipal Zoning District which permits single-family residential development as a principal use, shall be restricted solely to residential cluster development in accordance with the Residential Cluster Development standards as set forth at § 8.1, below. This provision shall apply only if the minimum threshold requirements for residential cluster development pursuant to § 8.1.6 can be satisfied. Where the minimum threshold

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requirements of § 8.1.6 cannot be satisfied, permitted principal residential uses shall remain as permitted by the underlying municipal zoning ordinance.

3. Permitted principal uses shall include the continuance of any lawfully existing residential use permitted by the underlying municipal Zoning Ordinance as of the date of adoption of this Ordinance.

§ 5.2.2 Conditional Uses

The conditional uses applicable to that portion of any municipal Zoning District overlain by the Highlands District classifications listed below shall be modified in accordance with the provisions that follow. In addition, 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.

- A. ***All Highlands Zones & Sub-Zones.*** Where the development of any principal or accessory use that is conditionally permitted by the underlying municipal Zoning Ordinance is made infeasible by the density of development requirements of § 5.3, below, such use shall no longer be considered a conditionally permitted use. (See example at § 5.2.1. A, above.) This provision shall apply only to the extent that a Highlands Zone or Sub-Zone from which the density requirement derives, intersects with the affected underlying municipal Zoning District. Where the development type remains feasible, its status as a conditionally permitted use shall remain, provided that the applicable density and intensity allowances shall consist of those at § 5.3.

§ 5.2.3 Prohibited Uses

The prohibited uses applicable to that portion of any municipal Zoning District overlain by the Highlands District classifications listed below shall be modified as necessary to comport with the provisions that follow. These provisions shall not apply to Appendix B Major PCS #17 pertaining to livestock, to Appendix C Minor PCS #12 pertaining to agricultural chemical storage, or to Appendix C Minor PCS#14 pertaining to livestock.

- A. ***Carbonate Rock 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 any portion of the Carbonate Rock Area or from any lands identified as draining into a designated Carbonate Rock Area:
 1. Solid waste landfills;
 2. Hazardous waste storage and disposal facilities;
 3. Hazardous materials storage and handling facilities; and
 4. Underground storage tanks.
- B. ***Prime Ground Water Recharge Area.*** Any principal or accessory use, or structure related or devoted to such use, which is designated as a Major Potential Contaminant Source (PCS) by the Highlands Council (see APPENDIX B), where otherwise permitted by the municipal ordinance, is expressly prohibited from any portion of the Prime Ground Water Recharge Area.
- C. ***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) or as a potential source of pathogenic contaminants (see APPENDIX B and APPENDIX C), where otherwise permitted by the municipal ordinance, is expressly prohibited from any portion of a Tier 1 Wellhead Protection Area.

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- D. *Wellhead Protection Area, Tier 2.* Any principal or accessory use, or structure related or devoted to such use, which is designated as a Major Potential Contaminant Source (PCS) by the Highlands Council (see APPENDIX B), where otherwise permitted by the municipal ordinance, shall be expressly prohibited from any portion of a Tier 2 Wellhead Protection Area.

§ 5.3 DENSITY AND INTENSITY OF DEVELOPMENT

The provisions of this section are intended to ensure that development 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 Borough 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 Applicability

Changes to the density or intensity standards of the underlying Zoning Ordinance required pursuant to this section shall not apply to development that is lawfully existing or approved as of the effective date of adoption of this Ordinance (pursuant to § 2.7 and § 2.6 above, respectively). These provisions shall apply, however, if modifications or improvements to such existing development result in either, for residential development (or any residential portion thereof) an increase in the number of residential units, or, for non-residential development (or any non-residential portion thereof), an increase in water demand by an average of 400 gallons per day or more, or for septic system yield by an average of 300 gallons per day or more. These provisions are expressly intended to apply to any change in use of an existing structure or structures, and require a determination as to any net increase. Where such a change converts a residential use to non-residential use, or vice versa, equivalent dwelling unit figures shall be applied to determine whether the change in use will result in a net increase in either water availability or septic system demand. For septic system demand, the equivalent dwelling unit wastewater flow shall be an average 300 gallons per day, while for water availability, the equivalent dwelling unit flow shall be an average 400 gallons per day.

§ 5.3.3 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 Borough Master Plan Highlands 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.”

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§ 5.3.4 Development Subject to Water Availability

The following density and intensity provisions notwithstanding, all new development (as defined at § 3.2) is subject to the availability of water sufficient in both quantity and quality to sustainably support it. Any proposed increase in the demand for water supply deriving from 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 any change in use (or modification to an existing use pursuant to § 5.3.2) that entails an increase in the number of residential units, or for non-residential development (or any non-residential portion), an increase in the demand for such water supply by an average 400 gallons per day or more. 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)

§ 5.3.5 Development Served by Septic Systems

Development proposals involving new or increased demand for septic system capacity 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 a new septic system to serve a residential dwelling unit (or accessory dwelling unit). Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system, however.

- A. *Septic System Density Requirements.* Septic system density (gross acres per septic system) shall not exceed that necessary to ensure compliance with the nitrate dilution allowances established below, for each Highlands Zone and Sub-Zone. Development proposals shall be evaluated on a project-specific basis for compliance with these requirements, using the methodology provided herein.
- B. *Maximum Nitrate Dilution Allowances.*
 - 1. Existing Community Zone (and Sub-Zones) – 2 mg/L
 - 2. Conservation Zone (and Sub-Zones) – 1.87 mg/L
 - 3. Protection Zone (and Sub-Zones) – 0.72 mg/L
- C. *Nitrate Dilution Model - Applicable to Residential Cluster Development, Only.* To determine the minimum land area required per septic system (or per unit increase in required septic system capacity), a drought recharge-based nitrate dilution model shall be applied. This model is available through the Highlands Council website (see link within Municipal Instructions for Plan Conformance, Module 6 at: <http://www.highlands.state.nj.us/njhighlands/planconformance/>). It derives from two independent methods: a mass-dilution (modified Trela-Douglas) model and the New Jersey Geological Survey's (NJGS) ground-water-recharge method. The model provides the minimum number of acres required

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per septic system (applied as an average density) to ensure that recharge is sufficient to achieve nitrate dilution targets.

- D. *Input Factors.* The following factors, representative of a one-family household, or average wastewater generation of 300 gallons per day, shall be used as inputs to the nitrate dilution model:
1. Household size of four (4) persons;
 2. Average nitrate loading of ten (10) pounds per person per year; and
 3. Drought ground water recharge for the HUC14 subwatershed as dilution.
- E. *Model Output.* The model output indicates 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.
- F. *Minimum Average Lot Size by Highlands Zone - Applicable to all development applications except those for Residential Cluster Development.* Based on maximum nitrate dilution allowances, the following table provides the minimum average lot size requirement per septic system for each of the Highlands Zones (each including Sub-Zones) in the municipality's single HUC14 subwatershed. These acreages 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. In all cases, minimum average acreage allowances are subject to analysis of site-specific conditions (e.g., soil characteristics) and a finding that capacity is available to support the resultant density.

HUC14	Subwatershed Name	Drought Recharge inches/year	Protection Zone acres/septic system	Conservation Zone acres/septic system	Existing Community Zone acres/septic system
02030105050100	Rockaway Ck. SB	9.3	26.34	10.14	9.5

- G. *Equivalent Yields.* The following unit/square footage figures shall be applied as 300 gallon-per-day equivalents:
1. Residential Uses (All Types, except as provided below) – 1 dwelling unit
 2. Deed-Restricted Senior Citizen Residential Units, or Mobile Home Parks with dwelling units less than 500 square feet in size – 1.5 dwelling units
 3. Office and Commercial Uses – 2,400 square feet of floor area
 4. Industrial (Including Warehousing/Distribution) Uses – 18,182 square feet of floor area (Excluding Process Wastewater Flow)
 5. Specific Non-Residential Uses by Facility Type – In lieu of 3., or 4., above, 300 gallon-per-day equivalents may be computed based on the average sewage volumes provided in APPENDIX F, from N.J.A.C. 7:9A-7.4.

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- H. *Septic System Yield.* The maximum septic system yield shall be determined by dividing the total area of the subject property by the minimum average acreage required per septic system (or per unit/floor area equivalent), as determined by the nitrate dilution model or table above, as applicable. Where the development application proposes unit or floor area equivalents (or any combination thereof) in a quantity equal to or less than the calculated septic system yield, it shall be deemed compliant with this section.
- I. *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.
- J. *Lot Area.* For the purposes of this subsection, the acreage of a lot shall be the total area of the lot(s) on which the development is proposed to be located as described by deed(s) or subdivision plat(s) on file with the municipal or county clerk.
- K. *Application of Results.*
1. *Detached One- or Two-Family Residential Development.* Where the underlying density (or minimum lot size) allowances of the municipal Zoning Ordinance would otherwise permit a greater number of units, the septic system density and septic system yield resulting from the preceding analysis may be applied as the minimum lot size and the maximum permitted dwelling unit yield or subject to the provisions of subsection 4., below, as the minimum average lot size with the septic system yield as the maximum unit yield. Alternatively, the underlying Zoning Ordinance allowances may be applied over a portion of the project area, subject to the limitations of subsection 4., below, to the point at which the calculated septic system yield (by HUC14) is reached, with the remainder of the lot area left undeveloped. If the minimum threshold requirements for Residential Cluster Development can be met (see § 8.1.6), the applicant may choose to cluster the development project in accordance with the requirements as provided therein. If the minimum threshold requirements for Residential Cluster Development can be met (see § 8.1.6) and the project is located within the Agricultural Resource Area, cluster development is mandatory as provided at § 8.1, and the preceding options shall not apply.
 2. *Multi-Family Residential Development.* Where the underlying density allowances of the municipal Zoning Ordinance would otherwise permit a greater number of units, the septic system yield resulting from the preceding analysis shall be applied as the maximum permitted dwelling unit yield.
 3. *Non-Residential and Mixed Residential/Non-Residential Development.* Where the underlying density allowances of the municipal Zoning Ordinance would otherwise permit greater non-residential floor area, or a greater number of residential units, or both, the septic system yield resulting from the preceding analysis shall be applied using the 300 gallon-per-day equivalents, as provided above, to determine the maximum permitted yield or combined yield.
 4. *Residential Cluster Development.* Where residential clustering dependent upon individual on-site wells for water supply, is proposed, the septic system density applicable to the developed portion of a site, or net septic system density, shall in no case result in a nitrate dilution in excess of 10 mg/L. This determination shall be made by application of the drought recharge-based nitrate dilution model as described above, using 10 mg/L as the nitrate dilution target. For purposes of this calculation, septic system yield shall be calculated on the basis of the developed portion of the site only, which shall consist of a contiguous land area including the following:

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- a) All land area proposed to be occupied by buildings, structures and associated improvements, all land area to be disturbed in connection with the construction or installation of such buildings, structures and improvements, and all of the land area intervening; and
 - b) All land area dedicated to any street or roadway providing public (or common) access to the development, to the limits of the right-of-way, easement, or other area(s) designated to contain such common access; and
 - c) All land dedicated to a community on-site stormwater detention facility, or other like facility providing public (or common) services to the development, each to the limits of the easement, lot line(s), or other area(s) designated to contain such common facility.
- L. *Aggregation of Septic System Yield.* Nothing herein shall be construed to prohibit the aggregation of available septic system yield from contiguous or noncontiguous parcels within the same HUC14 subwatershed in support of a new development project on one or more such parcels, provided that:
- 1. The contribution of septic system yield shall occur only where excess yield is available;
 - 2. The contribution of septic system yield from any already-developed parcel shall be permitted only where sufficient to equal one (1) dwelling unit or more, or for non-residential development, one (1) 300 gallon-per-day floor area equivalent or more;
 - 3. All lands contributing to such yield shall be dedicated to the support of the septic system(s) proposed for the new development, and no such land shall be counted in the calculation of septic system yield applicable to any other;
 - 4. All such lands shall be deed-restricted to prohibit any future development requiring the availability of septic system yield, until or unless such yield is either returned from the new development it was initially deed-restricted to support, or is obtained (by dedication through deed restriction) from elsewhere within the same HUC14 subwatershed.
- M. *HUC14 Subwatershed Yield.* The septic system yield applicable to a HUC14 subwatershed shall in no case be exceeded; an increase in any one portion of a HUC14 subwatershed must be offset by an equivalent decrease elsewhere within the same subwatershed.
- N. *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 Borough Health Ordinance and any related and applicable regulatory requirements of other agencies having jurisdiction.

§ 5.3.6 Development Served by Existing or Extended Utility Infrastructure

Where lots proposed for development 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) under an Areawide Water Quality Management Plan. In the case of Residential Cluster Development, however, all requirements shall be as provided at § 8.1, with the maximum unit yield not to exceed that as determined by calculation of the septic system yield pursuant to § 5.3.5, above. An increase in units in excess of the calculated septic system yield shall be permitted only to the extent of any aggregated septic system yield, as provided in accordance with § 5.3.5 L.

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§ 5.3.7 New or Extended Utility Infrastructure

- A. ***Protection Zone, Conservation 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.
- B. ***Existing Community Zone (excluding Environmentally-Constrained 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, 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 § 7.6 - § 7.7, below.)

§ 5.3.8 Development Served by New or Extended Utilities

Where new development proposed in the Borough 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.

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ARTICLE 6. HIGHLANDS RESOURCE REGULATIONS

§ 6.1 FOREST RESOURCES

§ 6.1.1 Findings

Forests are a defining visual and functional feature of the Highlands Region. 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 municipality 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 municipality identified by the Highlands Council as containing forest (as defined at § 3.2) appear as Total Forest Area in the map titled “Total Forest Area, Forest Subwatershed Integrity Areas” (Exhibit 2), adopted and incorporated as a component of this Ordinance pursuant to § 4.4, above.

§ 6.1.3 Forest Subwatershed Integrity Areas

The Highlands Council has evaluated and assigned forest integrity valuations to each of the HUC14 subwatersheds of the Borough. These valuations appear as Forest Subwatershed Integrity Areas in the map titled “Total Forest Area, Forest Subwatershed Integrity Areas” (Exhibit 2), adopted and incorporated as a component of this Ordinance pursuant to § 4.4, above, inclusive of the applicable forest subwatershed integrity classes:

- A. ***High Integrity Forest Subwatersheds.*** High Integrity Forest Subwatersheds are predominantly forested and characterized by a high proportion of forest cover consisting of high value core area, large patch sizes and short distances between patches.
- B. ***Moderate Integrity Forest Subwatersheds.*** Moderate Integrity Forest Subwatersheds are predominantly forested, but do not exhibit a high proportion of high value core area, large patch sizes, or proximity between patches.
- C. ***Low Integrity Forest Subwatersheds.*** Low Integrity Forest Subwatersheds are predominantly non-forested or include low values for proportion of forest cover and patch size, or exhibit high distance to nearest patch.

§ 6.1.4 Clear-Cutting Prohibited

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

§ 6.1.5 Standards

Disturbance (as defined at § 3.2) of any forested portion of the municipality 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 adequately providing for a proposed use that otherwise addresses the requirements of this Ordinance;

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- B. Demonstration that the proposed disturbance will not diminish the forest integrity class (as indicated in the map of Forest Subwatersheds (Exhibit 2) of any forested areas adjacent or proximate to the location of the proposed activity;
- C. Incorporation of Low Impact Development techniques (see § 7.2) appropriate to the activity or development project proposed;
- D. For any proposed disturbance 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
- E. 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.

§ 6.1.6 Forest Impact Reports Required

Any disturbance pursuant to § 6.1.5, above, shall be approved only upon demonstration that the criteria required therein have been satisfied. In support of such proofs, a Forest Impact Report shall be submitted containing at minimum, the items listed herein.

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 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 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. A description of the site and the type and integrity class of the existing forest areas proposed to be disturbed or potentially affected by disturbance of adjacent or proximate forest areas.
- 7. 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.

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8. An analysis of the effects (direct and indirect) of the proposed use or activity upon forests, including the resulting integrity class of forest areas adjacent or 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, 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 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.

§ 6.1.7 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

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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 within the municipality. 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 to the ecologic function of the plant and animal communities that depend upon them for survival. Highlands Open Waters are also an important physical feature of the Borough, 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 Borough, 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 Watershed Resource Value Areas

The Highlands Council has evaluated and assigned watershed resource valuations to each of the HUC14 subwatersheds of the Borough. These valuations appear as Watershed Resource Value Areas in the map titled

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“Highlands Open Waters, Watershed Resource Value Areas” (Exhibit 3) adopted and incorporated as a component of this Ordinance pursuant to § 4.4 above, inclusive of the three watershed resource value classes listed below.

- A. ***High Resource Value Watersheds.*** High Resource Value Watersheds contain predominantly forest lands, include a significant extent of high quality habitat, and have limited pre-existing developed land.
- B. ***Moderate Resource Value Watersheds.*** Moderate Resource Value Watersheds contain forest lands and some habitat suitable for rare, threatened or endangered species, but typically also contain significant areas of developed lands.
- C. ***Low Resource Value Watersheds.*** Low Resource Value Watersheds contain a low proportion of forest lands, low proportion of habitat suitable for rare, threatened or endangered species, and higher proportion of developed land area.

§ 6.2.3 Riparian Subwatershed Integrity Areas

The Highlands Council has also evaluated the HUC14 subwatersheds of the municipality on the basis of Riparian Area integrity, which are divided amongst three classes, as listed below. These appear as Riparian Subwatershed Integrity Areas in the map entitled “Riparian Area, Riparian Subwatershed Integrity Areas” (Exhibit 4) adopted and incorporated as a component of this Ordinance pursuant to § 4.4 above.

- A. ***High Integrity Riparian Area.*** The High Integrity Riparian Area consists of subwatersheds having Riparian Areas that exhibit predominantly natural vegetation, including high quality habitat for water/wetland dependent species, and a generally low incidence of impervious area, agricultural uses and road crossings.
- B. ***Moderate Integrity Riparian Area.*** The Moderate Integrity Riparian Area consists of subwatersheds having Riparian Areas that contain a higher incidence of impervious area, agricultural uses and road crossings, and a reduced proportion of natural vegetation providing high quality habitat for water/wetland dependent species.
- C. ***Low Integrity Riparian Area.*** The Low Integrity Riparian Area consists of subwatersheds having Riparian Areas that contain a high proportion of impervious area, agricultural uses and road crossings, and minimal natural vegetation providing high quality habitat for water/wetland dependent species.

§ 6.2.4 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 discernable bank of the Highlands Open Waters feature, or from the centerline where no discernable 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 a delineated wetlands line described in a Letter of Interpretation (LOI), or from a field-delineated boundary line for other features.

§ 6.2.5 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

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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 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, 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. ***Disturbance Limitations.***
1. ***Prohibitions.*** Disturbance of any portion of a Highlands Open Waters buffer is prohibited except as provided at G.2 or G.3, below, or where associated with a buffer restoration or enhancement activity designed to improve the functional value of the buffer, in accordance with the parameters listed at § 6.2.7, below.
 2. ***Areas of Previous Disturbance.*** Disturbance of a Highlands Open Waters buffer shall be permitted within portions of such a buffer which have been previously disturbed, as demonstrated by submission of a property survey including at minimum, the items listed at 2.a, below. For purposes of this subsection, a previously disturbed buffer area is one in which one or more buffer functional values, as listed at § 6.2.7 below, have been and remain compromised by prior development activity (excluding agricultural or horticultural uses) as evidenced by the existence of buildings or other structures (including parking areas and driveways, whether paved or gravel), and including associated graded or compacted areas, areas stripped of natural vegetation, maintained lawn areas, areas of fill or excavation, and other similar features. Any new disturbance of such previously-disturbed areas shall occur only in accordance with the provisions of this subsection.

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- a) All applications proposing a buffer disturbance pursuant to this subsection shall be accompanied by a property survey prepared by a licensed New Jersey Land Surveyor indicating: the metes and bounds of the subject property; the location and dimensions of existing buildings and other structures located thereon; the limits and extent of graded, compacted, filled or excavated areas; the limits and extent of areas stripped of natural vegetation, of maintained lawn areas; and any other site improvements provided in support of the prior development. The full extent of the proposed area of new disturbance shall be clearly indicated on the site or parcel plan submitted with the application, with the previously-disturbed area(s) illustrated on the same sheet using shaded or shadow outline features.
 - b) Authorization for any new disturbance within a previously-disturbed area shall be approved only upon a finding by the reviewing board or other applicable municipal authority that the proposal meets the following requirements:
 - (i) The proposed new disturbance will occur fully within the previously-disturbed area(s), as evidenced by both the property survey and the plan proposal submitted in support of the application;
 - (ii) The proposal incorporates measures that will enhance the functional value of the affected buffer area by means such as, but not limited to: reducing impervious coverage, replacing maintained grass lawns with naturalized areas, upgrading soil erosion and sedimentation controls, and providing for planting of native trees, grasses, or other vegetation appropriate to the riparian environment that support the functions of the Highland Open Waters buffer;
 - (iii) The proposal incorporates Low Impact Development techniques (see § 7.2) appropriate to the nature of the activity and the riparian aspects of the buffer area in question; and
 - (iv) The proposed plan will enhance one or more of the buffer functions listed at § 6.2.7, below; will result in no net loss of any one of the listed buffer functions; and will provide an overall improvement in the functional value of the affected buffer area, when compared with pre-existing conditions.
 - c) The allowances of this subsection shall not be construed to authorize improvements or development activity of any kind within any portion of a Highlands Open Waters buffer if the previously-disturbed area, or any portion thereof, is found to be the result of unlawful activity.
3. *Linear Development.* Linear development within Highlands Open Waters and adjacent 300-foot buffers 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.
- a) 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 to a Highlands Open Waters feature or the adjacent buffer. For proposed linear development that would provide access to an otherwise developable lot the applicant shall in addition, show that:
 - (i) The proposed linear development is the only point of access for roadways or utilities to an otherwise developable lot; and
 - (ii) Shared driveways are used to the maximum extent possible to access multiple lots.

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- b) For a driveway, the applicant shall, in addition, demonstrate that:
- (i) The applicant has made a good faith effort to transfer development rights for the lot based on the allocation of Highlands Development Credits certified by the Highlands Development Credit Bank, and has not obtained a commitment from the Highlands Development Credit Bank, a willing buyer, or a TDR receiving zone municipality to purchase said Highlands Development Credits;
 - (ii) The lot has been offered for sale at an amount no greater than the specific fair market value to all property owners within 200 feet of the lot, and to the land conservancies, environmental organizations, the Highlands Council and all other government agencies on a list provided by the Highlands Council, at an amount determined in compliance with N.J.S.A. 13:8C-26j or N.J.S.A. 13:8C-38j, as applicable;
 - (iii) Said offering under G.3.b(ii) was made by letter sent by certified mail, return receipt requested, with a copy to the Highlands Council: a) disclosing the location on the lot of all Highlands resource areas (as provided by an RMP Consistency Determination Report developed using the Highlands Council website); b) stating that an application to develop the lot has been filed; and c) enclosing a copy of a fair market value appraisal performed by a state-licensed appraiser based on the minimum beneficial economically viable use of the property allowable under local law; and
 - (iv) No reasonable offer for the lot has been received within a minimum period of 90 days.
- c) Documentation required toward satisfaction of the provisions of b(ii) through b(iv) preceding, shall include:
- (i) A list of the names and addresses of all owners of real property within 200 feet of the lot, as certified by the municipality, including owners of easements as shown on the tax duplicate;
 - (ii) A copy of each letter that the applicant sent under this subsection;
 - (iii) Receipts indicating that the letters were sent by certified mail;
 - (iv) A copy of all responses received. Each response shall be submitted to the reviewing municipal authority at the time of the application seeking approval for the proposed disturbance;
 - (v) A copy of the fair market value appraisal sent to all property owners within 200 feet as required under b(ii) above; and
 - (vi) A copy of a written response or a resolution from the Highlands Council demonstrating that it has considered and rejected the offer.
- d) 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.

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- e) After consideration of the information required in 3.a through 3.d above, the reviewing municipal authority shall not approve any application pursuant to this subsection if, either: the applicant has refused a fair market value offer to purchase the property for which the driveway linear development is sought, or the reviewing municipal authority finds that there is a reasonable alternative to the proposed linear development.

§ 6.2.6 Riparian Area Standards

The provisions of this subsection shall apply only to those portions of the Riparian Area that extend beyond the limits of designated Highlands Open Waters and associated 300-foot Highlands Open Waters buffers.

A. Protection Zone.

- 1. *Prohibitions.* Disturbance of any portion of a Highlands Riparian Area is prohibited except as provided at A.2, below, or where associated with an approved Riparian Area restoration or enhancement activity designed to improve the functional value of the Riparian Area, in accordance with the parameters listed at § 6.2.7, below.
- 2. *Allowances.* Disturbance of a Highlands Riparian Area shall be permitted only within portions of such Areas which have been previously disturbed, as demonstrated by submission of a property survey in accordance with 2.a, below. For purposes of this subsection, a previously disturbed Riparian Area is one in which one or more functional values, as listed at § 6.2.7 below, have been and remain compromised by prior development activity (excluding agricultural or horticultural uses) as evidenced by the existence of buildings or other structures (including parking areas and driveways, whether paved or gravel), and including associated graded or compacted areas, areas stripped of natural vegetation, maintained lawn areas, areas of fill or excavation, and other similar features. Any new disturbance of such previously-disturbed areas shall occur only in accordance with the provisions of this subsection.
 - a) All applications proposing a Riparian Area disturbance pursuant to this subsection shall be accompanied by a property survey prepared by a licensed New Jersey Land Surveyor, including each of the items listed at § 6.2.5 G.2.a, above for Highlands Open Waters buffers, and a parcel or site plan indicating the full extent of the proposed new disturbance, with the previously-disturbed area(s) illustrated on the same sheet using shaded or shadow outline features.
 - b) Authorization for any new disturbance within a previously-disturbed area shall be approved only upon a finding by the reviewing board or other applicable municipal authority that the proposal meets the criteria listed at § 6.2.5 G.2.b, above, with all requirements applicable to buffers therein applied instead to Riparian Areas.
 - c) The allowances of this subsection shall not be construed to authorize improvements or development activity of any kind within any portion of a Highlands Riparian Area if the previously-disturbed area, or any portion thereof, is proven to be the result of unlawful activity.

B. All Other Zones and Sub-Zones.

- 1. *High and Moderate Integrity Riparian Areas.* 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 following requirements:

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- a) Demonstration that the proposed disturbance can neither be avoided nor reduced in extent or loss of quality, while adequately providing for the proposed use;
 - b) Demonstration that the proposed disturbance will result in no net loss of the quality of adjacent Highlands Open Waters, in accordance with § 6.2.7, below;
 - c) Demonstration that the proposed improvement plan minimizes impacts to the other functional values of the affected Riparian Area, as provided at § 6.2.7, below;
 - d) Incorporation of Low Impact Development techniques (pursuant to § 7.2) appropriate to both the proposed activity and the riparian nature of the site, and designed to minimize Riparian Area disturbances while maximizing retention of natural features and Riparian Area functional value; and
 - e) Submission, approval and implementation of a Riparian Area Mitigation Plan providing for restoration of impaired Riparian Areas located either, or in combination, in the following order of preference: on the site of the proposed disturbance, within the same HUC14 subwatershed as the site of the proposed disturbance, within the nearest interrelated HUC14 subwatershed having impaired or disturbed areas in need of restoration, or within the nearest unrelated HUC14 subwatershed having impaired or disturbed areas in need of restoration. Mitigation shall at minimum, be commensurate in scale, effect and extent with the disturbance approved pursuant to this subsection. A Mitigation Plan pursuant to this subsection shall be approved only where it provides improvements to one or more Riparian Area functions, as listed at § 6.2.7, below, while ensuring no net loss in the quality or contributory effect of an existing function.
2. *Low Integrity Riparian Areas.* In the case of any Riparian Area that is determined through a functional value assessment performed in accordance with the parameters at § 6.2.7, below, to contribute significantly to the protection of a Highlands Open Waters feature, any proposed disturbance shall occur only in accordance with the provisions at § 6.2.6 B.1, above, for High and Moderate Integrity Riparian Areas. Disturbance of any other Riparian Areas shall be permitted contingent upon satisfaction of § 6.2.6 B.1.d through B.1.e, above.

§ 6.2.7 Functional Value Assessment Required

Prior to the approval of any application proposing disturbance of a Highlands Open Waters buffer or of a Highlands Riparian Area regulated at § 6.2.6 above, a functional value assessment shall be performed to indicate the health and contributory value of the buffer or Riparian Area under existing conditions. All such assessments shall be completed by a qualified professional and shall include a general description and evaluation of each of the components listed herein below. In addition, assessments shall provide a net gain/loss projection concerning each of the functional values, as applicable, based upon anticipated post-disturbance conditions. Such projections shall take into account all facets of the proposed application to determine anticipated impacts, whether beneficial or detrimental to functional values. Key functional values 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.

- A. *Habitat.* A reduction in aquatic habitat functional value will occur in the event of a net loss of in-stream food sources or of access to such sources. A loss of terrestrial habitat functional value will occur in the event of a shift to a less valuable overall vegetative condition based on the following hierarchy from highest value to lowest: forest or wetland, scrub/shrub, pasture or meadow, agriculture, maintained lawn, unpaved impervious surface, other structures.

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- B. ***Water Quality.*** A degradation of this functional value will occur if, as a result of the proposed land conversions, pollutant loads increase to the Highlands Open Waters.
- C. ***Temperature Moderation.*** A loss in temperature moderation functional value will occur if changes to the existing vegetation result in reduced shading of the Highlands Open Waters feature or of increased stormwater that discharges to Highlands Open Waters. Further, a loss in temperature moderation functional value may occur with the heating of stormwater by new structures and other impervious surface. Mitigation approaches include removing or relocating impervious surfaces away from the Highlands Open Water or ensuring that stormwater temperature is reduced through shading or other techniques.
- D. ***Channel Integrity.*** A loss of channel integrity functional value will occur if the project will result in: the loss of bank stabilizing vegetation; an increase in the peak rate of stream flow, or in localized scour potential, which will increase stream bank and stream bed erosion; or the removal or burial of aquatic habitat in any substantial part of a stream bed.

§ 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 municipality 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

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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:

- 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. For a driveway, the applicant shall, in addition, demonstrate that:
- a) The applicant has made a good faith effort to transfer development rights for the lot based on the allocation of Highlands Development Credits certified by the Highlands Development Credit Bank, and has not obtained a commitment from the Highlands Development Credit Bank, a willing buyer, or a TDR receiving zone municipality to purchase said Highlands Development Credits;
 - b) The lot has been offered for sale at an amount no greater than the specific fair market value to all property owners within 200 feet of the lot, and to the land conservancies, environmental organizations, the Highlands Council and all other government agencies on a list provided by the Highlands Council, at an amount determined in compliance with N.J.S.A. 13:8C-26j or N.J.S.A. 13:8C-38j, as applicable;
 - c) Said offering under A.2.b was made by letter sent by certified mail, return receipt requested, with a copy to the Highlands Council: a) disclosing the location on the lot of all Highlands resource areas as provided by an RMP Consistency Determination Report developed using the Highlands Council website; b) stating that an application to develop the lot has been filed; and c) enclosing a copy of a fair market value appraisal performed by a state-licensed appraiser based on the minimum beneficial economically viable use of the property allowable under local law; and
 - d) No reasonable offer for the lot has been received within a minimum period of 90 days.
3. Documentation required toward satisfaction of the provisions of 2.b through 2.d preceding, shall include:
- a) A list of the names and addresses of all owners of real property within 200 feet of the lot, as certified by the municipality, including owners of easements as shown on the tax duplicate;
 - b) A copy of each letter that the applicant sent under this subsection;
 - c) Receipts indicating that the letters were sent by certified mail;
 - d) A copy of all responses received. Each response shall be submitted to the reviewing municipal authority at the time of the application seeking approval for the proposed disturbance;
 - e) A copy of the fair market value appraisal sent to all property owners within 200 feet as required under 2.c above; and
 - f) A copy of a written response or a resolution from the Highlands Council demonstrating that it has considered and rejected the offer.

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4. 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.
 5. After consideration of the information required in A.1 through A.4 above, the reviewing municipal authority shall not approve any application pursuant to this subsection if, either: the applicant has refused a fair market value offer to purchase the property for which the driveway linear development is sought, or the reviewing municipal authority 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 one category of Critical Habitat, as set forth at § 4.3.4, above, being Critical Wildlife Habitat. Critical Wildlife Habitat includes lands containing habitat for rare, threatened and endangered wildlife species. Other categories include Significant Natural Areas and Vernal Pools. 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 Region. Such protection is vital to the survival of numerous rare, threatened and endangered species. Protection of Critical Habitat is in the interest of the Borough 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 Disturbance Prohibited

Disturbance of any portion of any lands located within designated Critical Habitat areas (Exhibit 6 Critical Wildlife Habitat), is prohibited. Until or unless the municipality has adopted a Habitat Conservation and Management Plan (see § 6.4.3), relief from this provision shall remain under the sole authority and jurisdiction of the Highlands Council. Any application proposing disturbance of Critical Habitat shall be neither deemed complete, nor reviewed or considered by the municipal Board or other applicable authority, until such time as authorization has been obtained from the Highlands Council in the form of a formal notification from the Executive Director of the Highlands Council, indicating by reference to specified plan drawings (including date, title, plan sheet number(s), and plan preparer) that the limits and extent of the disturbance proposed within the application has been approved.

§ 6.4.3 Habitat Conservation and Management Plan

Upon Borough 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 municipality 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

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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 Region from the potential for harm or physical damage associated with land development in the Carbonate Rock Area.

§ 6.5.2 Applicability

The provisions of this section shall apply to all proposed development in the Carbonate Rock Area (Exhibit 7).

§ 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. 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

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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 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:

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- (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 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.

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§ 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.

§ 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;

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- f) In those cases where the hazard cannot be repaired without adversely affecting a site plan or subdivision approval, the applicant shall file an amended application for such approval in compliance with the provisions of the municipal ordinances.

§ 6.6 [RESERVED]

§ 6.7 WATER CONSERVATION & DEFICIT MITIGATION

§ 6.7.1 Findings

The water resources of the municipality 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 municipality and the Highlands Region as a whole. 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 municipality. The remaining provisions of this section shall apply to any development application proposing a new or increased use of potable or nonpotable water derived from: a) any ground water source in a Highlands 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 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 result in neither, for residential development (or any residential portion thereof) an increase in the number of residential units, nor, for non-residential development (or any non-residential portion thereof), an increase in water demand by an average of 400 gallons per day or more.

§ 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;

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- 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 municipality (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.

§ 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 use 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

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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.
 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.

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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 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:

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- 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, 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.
 - 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

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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 Region heavily rely. It is the intent of the provisions herein to ensure that Prime Ground Water Recharge Areas 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).

§ 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.
- 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.

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- 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 Minor Potential Contaminant Source (PCS) (as listed at APPENDIX C) or as a Major PCS #17 (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).

§ 6.9.3 Potential Contaminant Sources

Where any permitted use or structure classified as a Major or Minor Potential Contaminant Source (PCS) (as listed at APPENDIX B or APPENDIX C) is proposed to be located or expanded within a Wellhead Protection Area, the standards of this subsection shall apply. 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 Potential Contaminant Sources shall be designed in a manner that prevents the unintentional discharge of toxic or hazardous pollutants to ground water, surface water bodies, or the land surface from internal areas, loading and storage areas, transfer areas, etc. Best management practices include but are not limited to: primary and secondary containment; and prevention of contact between pollutants and precipitation, stormwater and flood waters. Any application involving a PCS shall be approved only upon demonstration that these provisions have been satisfactorily addressed. Such findings shall be based upon review and recommendations by a qualified professional (e.g., Environmental Engineer), unless the application is accompanied by one of the following permits and authorizations, any of which shall be considered equivalent to the best management practices of this Ordinance. As applicable to the PCS involved, these may also be

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submitted in lieu of an Operations and Contingency Plan, as otherwise required under subsection § 6.9.3.B, 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.
- B. ***Operations and Contingency Plans.*** Unless one of the permits or approvals listed at § 6.9.3 A.1-8, above is provided, as a condition of approval of any application involving a Potential Contaminant Source within a WHPA, 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.
- C. ***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.
- D. ***Required Content of Operations & Contingency Plans.*** An Operations and Contingency Plan shall be developed, where required under this Ordinance, for each Potential Contaminant Source or group of Potential Contaminant Sources (where multiple sources exist within a single facility owned and operated by a single entity) and shall address the elements listed herein. An Operations and

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Contingency Plan for a Minor Potential Contaminant Source must demonstrate that the potential for a significant discharge is minimized to the extent practicable. An Operations and Contingency Plan for a Major Potential Contaminant Source must demonstrate that the potential for a significant discharge is the lowest technologically feasible:

1. Documentation of the Major and Minor Potential Contaminant Sources 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 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 Potential Contaminant Sources are designed to employ best management practices to the maximum extent feasible.
- E. An Operations and Contingency Plan for the following Potential Contaminant Sources, where required under this Ordinance, shall not be required to meet the requirements of D.7 or D.8, above unless the designated professional determines that the Potential Contaminant Source constitutes a significant threat to ground water or water supply quality due to particular site conditions:
1. Individual Subsurface Disposal System (i.e., septic system) leach field in Tier 2 or Tier 3 of a WHPA, or within a PGWRA;
 2. Individual Subsurface Disposal System (i.e., septic system) leach field where such systems are subject to a routine, mandatory inspection and pumping schedule pursuant to any applicable Board of Health Ordinance;
 3. Cemeteries that are closed to future interments;
 4. Underground heating oil storage tanks with a capacity of less than 250 gallons;
 5. Sanitary sewer lines and manholes;

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6. Stormwater infiltration basins for non-industrial land uses;
 7. Dry wells for non-industrial land uses;
 8. Stormwater conveyance lines for non-industrial land uses; or
 9. Any category of existing, proposed or replacement Major or Minor Potential Contaminant Source where the Operations and Contingency Plan commits to having no potential contaminants stored, discharged, manufactured or used on-site.
- F. Any information included in an Operations and Contingency Plan which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure 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 Planning 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 municipality 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 municipality and to the lands of the Agricultural Resource Area (Exhibit 8), specifically. The Agricultural Resource Area (ARA) consists of the areas of most concentrated and contiguous agricultural uses and contains major areas of Important Farmland Soils.

§ 6.10.3 Agricultural Resource Area

- A. ***Agricultural and Horticultural Development.*** In accordance with the provisions of § 5.2.1 above, permitted uses in the ARA include agricultural and horticultural uses (as defined at § 3.2). Accessory uses permitted in conjunction with such uses include ancillary, incidental or otherwise related supporting uses and the accessory structures devoted to such uses. The specific permitted uses and other applicable requirements pertaining to agricultural and horticultural development in the ARA include the following:
1. *Permitted Uses & Accessory Uses.* [To be established by the municipality in consideration of the characteristics of the local ARA and in consideration of the requirements of the Right to Farm Act.]

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2. *Bulk & Other Requirements.* [For example: minimum lot size (consistent with density standards of § 5.3), types of permitted structures (e.g., barns, silos, farmhouse, residential accessory structures, sheds, roadside stands), setbacks, lot coverage, parking, buffers, screening, lighting, signs, access roads and driveways.]
 3. *Other Regulations.* Approval of any application proposing agricultural or horticultural development pursuant to this subsection shall in addition, be subject to the provisions of § 6.10.4 through § 6.10.6, below. [Additional requirements may be added at the discretion of the municipality.]
- B. ***Residential Development.*** Pursuant to § 5.2.1 above, where the underlying zoning permits residential development within any portion of the ARA, the only form of such development permitted is residential cluster development in accordance with the provisions of § 8.1, below, provided the minimum thresholds (see § 8.1.6) can be satisfied. Where such thresholds cannot be met, the allowances for residential development provided in the underlying Zoning Ordinance apply to applications for such development, subject to all density and resource protection requirements of this Ordinance. Lawfully existing residential development in the ARA that does not meet the cluster development requirements of § 8.1, is permitted to continue; it remains under the regulations of the underlying Zoning Ordinance, and is not made nonconforming by the provisions of § 5.2.1.
- C. ***Other Development.*** Where the underlying Zoning Ordinance provides for other permitted uses within the ARA, such uses shall remain as permitted uses, unless eliminated or reverted to a conditional or prohibited use by the other provisions of § 5.2.

§ 6.10.4 Conditions of Approval

The approval of any proposal for agricultural or horticultural development in the municipality is subject to the specific requirements listed at A through C, 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.

- A. ***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 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.
- B. ***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.

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- C. **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 [RESERVED]

§ 6.12 SCENIC RESOURCES

§ 6.12.1 Findings

The scenic resources of the Borough are part of the unique landscape that defines the Highlands Region. These resources are essential to the character and aesthetic quality of the municipality 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 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 Applicability

The provisions of this section shall apply to any development application involving property which is located either, among those identified as containing a Highlands Scenic Resource 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 such Resources.

§ 6.12.3 Referral to Highlands Council Required

Any development application involving a lot or lots covered by § 6.12.2 above, shall be neither deemed complete nor reviewed or considered by the municipal authority until or unless the proposal has been approved by the Highlands Council. Such authorization shall be in the form of a formal notification from the Executive Director of the Highlands Council, indicating by reference to specified plan drawings (including date, title, plan sheet number(s), and plan preparer) that the application has been approved by the Highlands Council and may proceed to the municipal review authority.

§ 6.12.4 Exceptions

At such time as 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

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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, referral to the Highlands Council of a development application involving the lot or lots on which such Resource is located need not occur until after completion of all facets of the local review have taken place, and such referral shall instead be a condition of any approval of the application.

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ARTICLE 7. 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. [If/when applicable: Regulations applicable to the provision of low- and moderate-income housing in the municipality may be found at: *(insert reference to applicable municipal ordinance, by title, number, and effective date).*]

§ 7.2 LOW IMPACT DEVELOPMENT

§ 7.2.1 Applicability

The following provisions shall apply to all development applications.

§ 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 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 growth principles and low impact development techniques such as use of shared parking and driveway

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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

The following provisions shall apply to all applications involving property containing any of the following Highlands Resources, Highlands Resource Areas, or Special Protection Areas: Highlands Open Waters, Highlands Open Waters buffers, Steep Slopes (any area containing 5,000 square feet or more of contiguous Steep Slopes, or any portion of such an area), Steep Slope Protection Area, Critical Habitat, and Prime Ground Water Recharge Area. These provisions shall apply whether or not any disturbance of such Resources or Areas is proposed and regardless of the type of application at issue (e.g., zoning or building/construction permit application requiring prior resource review and approval, Highlands Resource Permit application, Application for Development). These standards shall also apply in the case of any specific requirement for a Conservation Restriction as set forth by the provisions of this Ordinance. Nothing herein shall be construed to preclude the imposition of conservation restrictions in the case of Highlands Resources, Resource Areas, or Special Protection Areas not listed above or where not specifically required otherwise, 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

Approval of any application shall require that the applicant commit to and perfect a conservation restriction protecting 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. In the case of an application pertaining to a single-family home that is neither exempt nor excluded from this Ordinance, 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, provided as exclusions pursuant to § 2.1.1, above.

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1. 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:
 - a) 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
 - b) 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.
2. 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.
3. The conservation restriction shall include either:
 - a) A survey and a metes and bounds description of the entire restricted area; or
 - b) 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
 - c) 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.
4. 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.
5. All other conservation restrictions shall be enforceable by the municipality and the Highlands Council.
6. The language to be included in the conservation restriction shall be reviewed and approved by the Municipal or Board Attorney, as applicable.

§ 7.3.3 Deed Notice for Exemptions

In the case of any Municipal Exemption Determination authorized pursuant to § 9.1.2 B.1.b below, filing of a fully executed, certified deed notice shall satisfy the requirement that the balance of the property be protected from future disturbance, provided it incorporates each of the components listed herein.

- A. Clear identification of the name(s) and address(es) of the owner(s) in fee of the property;

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- B. Designated tax block and lot number(s), street address(es), municipality and county of location of the property;
- C. Reference to the Municipal Exemption Determination (by date, numbering if applicable) issued and under which the deed notice is being filed;
- D. Description of the approved area of ultimate disturbance and the impervious surface area, with verification that these consist of less than one (1) acre and one-quarter (1/4) acre, respectively;
- E. For properties of one acre or more in area, metes and bounds delineation indicating the portion of the property for which the ultimate disturbance has been authorized;
- F. Agreement to abide by the ultimate disturbance and impervious surface limits imposed, any furtherance thereof rendering the Municipal Exemption Determination null and void; and
- G. Notice that the owner(s) and subsequent owner(s) and lessees shall cause all leases, grants, and other written transfers of interest in the property to contain provisions expressly requiring all holders thereof to take the property subject to the limitations therein set forth.

§ 7.4 STORMWATER MANAGEMENT

§ 7.4.1 Applicability

The provisions of this section shall apply to any development application.

§ 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 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.

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- 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;
 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 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.

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- 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.
- 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 Board of Health Ordinance and 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.

§ 7.6 PUBLIC WATER SYSTEMS

The creation or expansion of any public water system, as permitted in the Existing Community Zone (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 Use and Deficit Mitigation), including limitations on demands on the source subwatershed.

§ 7.7 WASTEWATER COLLECTION AND TREATMENT SYSTEMS

The creation or expansion of any wastewater collection and treatment system, as permitted in the Existing Community Zone (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.

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- 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.
- 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 Use and Deficit Mitigation), including limitations on demands on the source subwatershed.

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ARTICLE 8. PLANNED DEVELOPMENT REGULATIONS

§ 8.1 RESIDENTIAL CLUSTER DEVELOPMENT

§ 8.1.1 Findings

The intent of this Article is to provide for cluster and conservation design development (hereinafter referred to as cluster development) consistent with the Land Use Plan Element of the Master Plan and as defined at § 3.2. Cluster development is a development design technique under which principal buildings and structures are grouped together on a portion of the Cluster Project Area, while the remaining land area is permanently deed-restricted in agricultural use, for conservation of natural resources, or as open space for environmental protection including public recreational use. Cluster development allows 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, supporting the continuation of existing agricultural and/or horticultural land uses, and developing attractive residential development consistent with community character.

§ 8.1.2 Applicability

The provisions of this section shall apply to all lands in the ARA, as provided at § 4.3.8 and as designated in the map titled “Agricultural Resource Area” (Exhibit 8). The permitted principal residential use for any underlying municipal Zoning District in the ARA which permits single-family residential development as a principal use, is restricted solely to cluster development in accordance with § 5.2.1.B, which incorporates all provisions of this section. Approval of all residential cluster development within the ARA shall be conditioned upon approval by the Highlands Council in accordance with the Highlands Council Cluster/Conservation Design Development Guidelines. Cluster development within the ARA shall be consistent with the Agriculture Retention/Farmland Preservation Plan Element of the Master Plan and the provisions of this ordinance by supporting the preservation of farmland, avoiding conflicts with agriculture, maintaining and enhancing the sustainability and continued viability of the agricultural industry, protecting Important Farmland Soils, and meeting the management and protection provisions of this ordinance for Highlands Resources. *[Note: Until the municipality develops a cluster development ordinance approved by the Highlands Council or updates an existing cluster development ordinance during the full Plan Conformance process, all residential cluster development in the ARA shall be conditioned upon approval by the Highlands Council.]*

§ 8.1.3 Cluster Project Area Standards

The Cluster Project Area (as defined at § 3.2) includes all of the individual parcels from which development is clustered, including the area set aside for preservation and the area set aside for development. Residential cluster development shall be implemented in accordance with the Highlands Council Cluster/Conservation Design Development Guidelines, incorporated by reference herein, and shall incorporate the provisions below for the Cluster Project Area. The use of clustering in Highlands Zones or Sub-Zones having a high concentration of environmentally sensitive resources will be limited. The use of non-contiguous clustering, wherein the development rights of non-contiguous parcels are aggregated for use upon a single parcel (or group of adjacent parcels) suited to cluster development, shall be permitted and is encouraged where it affords a higher level of protection to Highlands Resources and Resource Areas than would otherwise be the case. Land management and stewardship, including best management practices and conservation and/or management plans, for the Cluster Project Area shall be subject to the provisions of Article 6 for all Highlands Resources including, but not limited to protection, restoration, maintenance and mitigation, as applicable. *[Note: The Highlands Council will release the Cluster/Conservation Design Development Guidelines during the Plan Conformance process to facilitate creation of the municipal cluster development ordinance. This document will include requirements for the areas set aside for preservation and development as necessary to design and implement cluster development using a holistic planning approach.]*

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§ 8.1.4 Preservation Set Aside of Cluster Project Area Standards

- A. The area set aside for preservation in a Cluster Project Area shall comprise at least 80% of the total Cluster Project Area, and shall be preserved in perpetuity for agricultural use or for environmental protection. If the Cluster Project Area is served by a public or community on-site wastewater system, the area set aside for preservation shall comprise at least 90% of the Cluster Project Area to the maximum extent this is feasible. All land preserved in perpetuity shall require a conservation restriction that complies with § 7.2 and is enforceable and monitored by the Highlands Council, the Borough, and, where requested by the Highlands Council: for environmental protection, the NJDEP Green Acres or a qualified land trust non-profit organization, or for agricultural use, the CADB or the SADC. All Preservation Set Asides shall be deed-restricted against further subdivision and shall consist of one contiguous parcel, to the maximum extent feasible, unless non-contiguous clustering is utilized.
- B. When agricultural resources are preserved the following provisions shall apply:
1. The most productive Important Farmland Soils, determined in accordance with NRCS USDA soil survey data, NJDA and the local SCD shall be given priority in determining the area set aside for agricultural preservation within the Cluster Project Area.
 2. The conservation easement or deed restriction and a legally enforceable Homeowner's Agreement, where applicable, shall include Right to Farm Act provisions.
 3. Retention of the original farmstead or construction of new farmsteads associated with preserved agricultural lands in cluster developments shall be permitted.
 4. The preserved portion of the Cluster Project Area shall be buffered appropriately to avoid conflicts between agricultural operations and adjacent development, including the developed portion of the Cluster Project Area, and to facilitate compliance with Borough Right to Farm regulations.
 5. This ordinance supports Sustainable Agriculture (as defined at § 3.2 and consistent with the Agriculture Retention/Farmland Preservation Plan Element of the Master Plan) and requires the implementation of best management practices on the agricultural land, including as a condition of any approval, development and implementation of a Farm Conservation Plan (as defined at § 3.2 and described at § 6.10.4) that addresses the protection of water and soil resources, prepared by the USDA NRCS, TSP, appropriate agent or NJDA staff, and approved by the local SCD.
 6. Community supported agriculture businesses shall be permitted within the preserved portion of the Cluster Project Area to allow homeowners to take advantage of local agricultural goods and services and to enhance the viability of the agricultural industry.
 7. Requirements (e.g., bulk standards) applicable to agricultural development shall be as provided for other agricultural uses at § 6.10.3.
- C. When natural resources are protected the following provisions shall apply:
1. Cluster development shall meet the resource management and protection requirements of Article 6 and shall be consistent with the policies of the Conservation Plan Element of the Master Plan.
 2. Where high value natural resources are preserved, the conservation easement or deed restriction shall prohibit active recreational uses and facilities, and only allow minimal passive recreational uses

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dependent upon the nature of the resources. *[Note: The Highlands Council intends to develop habitat valuation assessment tools that may be used to identify value on a parcel basis.]*

3. Passive recreational trails shall be allowed provided they do not disturb habitat and shall be natural landscape trails constructed using native pervious materials. Where feasible, such passive recreational trails shall link to existing federal, state and local trail systems, greenways and parks.
4. Buffering techniques, management and stewardship of natural resources, and site design for the Cluster Project Area shall be used, where feasible, to enhance the existing natural resources protected within the Cluster Project Area.

§ 8.1.5 Development Set Aside of Cluster Project Area Standards

- A. Cluster development shall be designed to avoid or minimize disturbance of natural resources and agricultural resources (including ARAs) of the Highlands Region in compliance with the provisions of this Ordinance.
- B. The total area set aside for development in the Cluster Project Area shall not exceed 20%. To the maximum extent feasible, the developed area of the Cluster Project Area shall occupy no more than 10%, if the project area is served by a public or community on-site wastewater system.
- C. Cluster development yields shall be based on the septic system yields for the Cluster Project Area at a maximum, as established at § 5.3.5, or at the development density allowed under Borough zoning, whichever is more restrictive.
- D. Water and wastewater availability, expansion, or creation for cluster development shall be in compliance with § 5.3.6 through § 5.3.8 and shall meet the resource management and protection provisions of this Ordinance.
- E. Cluster residential development proposing to use septic systems shall be designed in compliance with § 5.3.5, and shall meet the resource management and protection provisions of this Ordinance.
- F. All infrastructure, open space and utilities necessary to support the residential cluster development shall be located within the Development Set Aside of the Cluster Project Area (i.e. streets, common open space areas, wastewater facilities and stormwater management).
- G. Where a municipality has developed and the Highlands Council has approved a plan for the aggregation of cluster developments to minimize the potential for dispersed clusters, the cluster development shall be consistent with such plan.
- H. Cluster development shall incorporate smart growth principles where feasible, including but not limited to: a mix of land uses; compact building design; walkable neighborhoods; a range of housing opportunities and choices; foster distinctive communities with a strong sense of place using design techniques illustrated in the Highlands Cluster/Conservation Design Development Guidelines; preserve critical natural and agricultural resources; direct development towards existing infrastructure (i.e. water, wastewater, transportation, and community facilities); provide a variety of transportation choices (i.e. pedestrian, bicycle automobile, bus, rail); and encourage community and stakeholder collaboration in development decisions.
- I. Cluster development shall incorporate LID techniques, as set forth at § 7.2.

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- J. Cluster development shall be designed to maintain the Highlands rural, scenic and historic character and shall consider and harmonize with existing community character with respect to architectural style, scale, massing and arrangement of buildings. Protection of designated Highlands Scenic Resources (Exhibit 9) shall be considered and incorporated consistent with the provisions at § 6.11. Primary criteria for site design decision-making shall include protection of existing resources and minimization of negative impacts.
- K. All buffers and setbacks shall consider and incorporate or harmonize with existing natural, agricultural, historic and scenic resources and with community character. Buffers and setbacks shall be designed to consider and harmonize with the Cluster Project Area and adjacent existing development. Existing natural resources and vegetation (e.g., hedgerows/trees, woodlands or forest, wetlands, streams) shall be retained and may be enhanced as buffer features whenever feasible. Where the cluster development is integrated into an existing neighborhood or center-type development, the developed area of the cluster shall be located behind an existing hedgerow (mature trees) or screened with a new buffer as appropriate, such as a thickly planted berm of native trees or shrubs that is landscaped in such a manner as to resemble existing woodlands.
- L. Site disturbance shall be restricted to clearing and grading to the minimum extent necessary to make reasonable use of the designated building envelopes, including but not limited to compliance with LID requirements at § 7.2 and retention of existing mature trees.
- M. Cluster development shall be configured to minimize impervious coverage.

§ 8.1.6 Single-Family Dwelling Area, Yard and Bulk Standards

Residential cluster development shall be tailored to the characteristics of the site and its environs, and shall be designed to avoid or minimize disturbance of existing Highlands Resources. The following standards shall apply to residential cluster development projects.

A. *Minimum Acreage Threshold Requirements.*

- 1. Cluster Development reliant upon on septic systems:
 - a) Protection Zone – 120 acres
 - b) Conservation Zone – 40 acres
 - c) Existing Community Zone – 35 acres
- 2. Cluster Development served by wastewater utilities:
 - a) All Zones – 30 acres

B. *Net Density/Intensity Threshold Requirements.*

- 1. New single-family residential cluster development shall be subject to a net septic system density limitation, calculated on the basis of the developed portion of the Cluster Project Area (as provided at § 5.3.5). Such density (acres per septic system) shall comply with a nitrate dilution target for the developed portion of the Cluster Project of 10 mg/L or less.

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2. Where new single-family residential development is proposed to rely on existing wastewater utilities the density and intensity standards shall be in compliance with the underlying municipal zoning ordinance.
- C. ***Minimum Unit Number Threshold Requirement.*** Application of the acreage and density/intensity requirements of A. and B., above, shall yield a minimum of four (4) dwelling units.
- D. ***Bulk Requirements.*** Where the applicant demonstrates and the reviewing Board finds, based upon submission of an analysis of natural and agricultural resources within the Cluster Project Area, that the site design shall be enhanced by reducing the bulk requirements of this subsection (e.g., where existing topography or vegetation provides an effective visual screen), these requirements may be reduced by up to 50%. Such reductions shall similarly apply to the extent they may be necessary to ensure compliance with the density or intensity requirements of B.1 and B.2 above.
1. Cluster Development reliant upon septic systems:
 - a) Minimum lot frontage shall be 150 feet.
 - b) Minimum lot width shall be 150 feet.
 - c) Principal Building Setbacks
 - (i) Minimum front yard setback shall be 50 feet.
 - (ii) Minimum side yard setback shall be 30 feet.
 - (iii) Minimum rear yard setback shall be 50 feet.
 - d) Accessory Building Setbacks
 - (i) Minimum setback from side or rear line shall be 15 feet; if a reduction is allowed, it shall be no less than 10 feet.
 - (ii) Minimum setback from other buildings shall be 15 feet; if a reduction is allowed, it shall be no less than 10 feet.
 2. Cluster Development served by wastewater utilities:
 - a) Minimum lot frontage shall be 100 feet.
 - b) Minimum lot width shall be 100 feet.
 - c) Principal Building Setbacks
 - (i) Minimum front yard setback shall be 35 feet.
 - (ii) Minimum side yard setback shall be 20 feet.
 - (iii) Minimum rear yard setback shall be 35 feet.
 - d) Accessory Building Setbacks

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- (i) Minimum setback from side or rear line shall be 10 feet; if a reduction is allowed, it shall be no less than 5 feet.
 - (ii) Minimum setback from other buildings shall be 15 feet; if a reduction is allowed it shall be no less than 10 feet.
- E. ***Other Requirements.*** All other development requirements for single-family dwellings, including any bulk standards not listed above (e.g., lot coverage, building coverage, building height) shall be as required pursuant to the underlying municipal zoning/land use ordinances.

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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 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 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 § 2.2 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.*** For all applications involving exemptions not listed and covered by the provisions at B., below, proof of exemption shall consist only of an Exemption Determination issued by the Highlands Council indicating that the proposal qualifies as a Highlands Act Exemption.
- B. ***Municipal Determination.*** In the case of an application involving any of the specific exemptions listed in this subsection, the applicant may request and shall be deemed to have satisfied the evidentiary requirement by obtaining a Municipal Exemption Determination indicating that the proposal qualifies as a Highlands Act Exemption. By authorization of the Highlands Council regarding these specific exemptions, the applicant may rely upon the findings of a Municipal Exemption Determination to the same extent and with the same protections as would apply in the case of an Exemption Determination issued by the Highlands Council. Effective as of the date on which the municipality receives written authorization from the Highlands Council to proceed, exemptions eligible for Municipal Exemption Determination shall include those listed below.
 - 1. ***Exemption 1.*** The construction of a single family dwelling, for an individual’s own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of the Highlands Act (August 10, 2004) or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004. (Note: the Highlands Act defines “an immediate family member” as 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,

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stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.”)

2. *Exemption 2.* The construction of a single family dwelling on a lot in existence on the date of enactment of the Highlands Act (August 10, 2004), provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more.
 - a) Municipal Exemption Determinations authorizing applicants to proceed under Highlands Act Exemption 2 shall require approval and filing of either a Deed Notice or Conservation Restrictions providing for the protection of the balance of the applicant’s property, beyond the designated disturbance area of less than one acre, in accordance with the requirements of § 7.3 of this Ordinance, “Conservation Restrictions.” Review and approval of proposed Deed Notice or Conservation Restrictions shall occur as provided at § 7.3 of this Ordinance, with the costs for review and approval of same provided by the applicant in accordance with the escrow requirements of § 9.3 as applicable to Conservation/Deed Restrictions. Municipal Exemption Determinations in such instances shall not take effect until or unless the applicant has provided proof of filing of the approved deed restrictions.
3. *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.
 - 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 coincide with the date of enactment of the Highlands Act, or August 10, 2004.
 - 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.
4. *Exemption 5.* Any improvement to a single family dwelling in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system.
5. *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.
6. *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

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normal harvesting of forest products in accordance with a forest management plan approved by the State Forester.

7. *Exemption 8.* The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.
- C. ***Procedures.*** Municipal Exemption Determinations shall be issued by the Exemption Designee, as indicated at D., below, within 30 days of receipt of a request for same. In no case shall failure to meet this date constitute approval of the exemption.
1. Requests for Municipal Exemption Determination shall be submitted on forms provided by the Planning and shall be accompanied by sufficient information and documentary evidence to demonstrate whether or not the proposed activity, improvement or development project qualifies, in all respects, with the applicable exemption. Required submission materials applicable to each exemption, appear below. The applicant shall provide a copy of the full application to the Highlands Council, as instructed within the form.
 2. Insufficient or incomplete information shall form the basis for a finding that the proposal is not qualified as a Highlands Act Exemption. Nothing shall preclude the applicant in such an instance, from re-submission of the application. In addition, where the Exemption Designee has determined that the required information is not extensive, s/he may authorize the applicant to provide supplemental materials under the same application, subject to the applicant's agreement to an extension of time for review of the application not to exceed an additional 30 days [from the date of receipt of materials. The Exemption Designee may consult with the Executive Director (or applicable designee) of the Highlands Council as needed in making any exemption determination.
 3. All Municipal Exemption Determinations shall be provided in writing, shall indicate the findings of the Exemption Designee, and shall include a statement of the rationale for the final decision, whether approving or denying the exemption request. All Municipal Exemption Determinations shall include the effective date of the Determination, which shall occur on the 20th day after the date of issuance provided it is not modified or rejected in the interim by the Highlands Council. The Exemption Designee shall provide copies of all Municipal Exemption Determination to the Highlands Council within five (5) business days of issuance..
- D. ***Exemption Designee.*** Municipal Exemption Determinations regarding Highlands Act Exemptions shall be issued by the Borough Planner .
- E. ***Appeal of Findings.*** The decision of the Exemption Designee 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).
- F. ***Submission Requirements.*** All applications shall be accompanied by the information listed below, as applicable to the particular exemption or exemption(s) being sought by the applicant. All references to professional preparers indicated herein shall be 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 including but not limited to the MLUL (N.J.S.A. 40:55D-1 et seq) and Title 13 of the New Jersey Administrative Code, Law and Public Safety.

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1. *Exemption 1.*

- a) A copy of a deed, closing or settlement statement, title policy, tax record, mortgage statement or any other official document showing that the lot was legally owned by the applicant on or before August 10, 2004 and indicating the lot and block as designated by the municipal tax mapping, the municipality and county in which the lot is located, and the street address;
- b) If the applicant does not own the lot, a copy of the binding contract of sale executed by the seller and the applicant on or before May 17, 2004 for the lot on which the house is to be constructed;
- c) A certification by the applicant stating that the single family dwelling proposed for construction on the lot specified and described therein by tax lot and block, municipality and county of location, and street address, is intended for the applicant's own use or the use of an immediate family member as identified therein by name and relationship to the applicant; and
- d) A property survey certified by a licensed New Jersey Professional Land Surveyor indicating the property boundary lines and overall lot size, and showing what structures currently exist on the lot, if any.

2. *Exemption 2.*

- a) A copy of the recorded deed or plat showing that the lot was created on or before August 10, 2004;
- b) A property survey certified by a licensed New Jersey Professional Land Surveyor indicating the property boundary lines and overall lot size, and showing what structures currently exist on the lot, if any;
- c) A parcel plan certified by a licensed New Jersey Professional Engineer showing all existing and proposed development, including all structures, grading, clearing, impervious surface and disturbance, and including the calculations supporting the claim that impervious surfaces and areas of disturbance are within the limits necessary for Exemption 2; and
- d) A metes and bounds description of the area of the lot to be disturbed, limited to less than one acre and a draft conservation restriction or deed notice to cover the balance of the lot.

3. *Exemption 4.*

- a) A parcel plan certified by a licensed New Jersey Professional Engineer depicting:
 - (i) All existing property improvements, including all structures, grading, clearing, impervious surfaces and limits of disturbance, existing on the site as of August 10, 2004; and
 - (ii) All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading;
- b) Photographs keyed to the site plan; and
- c) A copy of any official documentation indicating the original date of construction of the building or otherwise establishing the lawfulness of existing impervious surfaces.

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4. *Exemption 5.*

- a) A copy of any official documentation proving the single family dwelling was in existence on August 10, 2004;
- b) A description of the proposed improvement; and
- c) A certification from the applicant that the property and all improvements will continue to be used for single family dwelling purposes.

5. *Exemption 6.*

- a) A copy of any official documentation indicating that the place of worship, public or private school or hospital was in existence on August 10, 2004;
- b) For improvements to a place of worship, documentation showing that the entity, society or association, or association organized primarily for religious purposes has non-profit status;
- c) A site plan certified by a licensed New Jersey Professional Engineer depicting:
 - (i) All existing property improvements including all structures, grading, clearing, impervious surfaces and limits of disturbance, existing on the site on August 10, 2004; and
 - (ii) All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading; and
- d) A Certificate of Occupancy for existing buildings on the property.

6. *Exemption 7.*

- a) For a private landowner with an approved woodlot management plan:
 - (i) A copy of the applicant's tax bill showing that the site has farmland assessment tax status under the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq., if applicable;
 - (ii) A brief description of the total area of woodlands that is the subject of the approved woodland management plan;
 - (iii) A brief description of the length of time that the area to be managed has been in use for woodland management; and
 - (iv) A copy of the approved woodland management plan.
- b) For a forest management plan approved by the State Forester:
 - (i) A brief description of the total area where the normal harvesting of forest products occurs;
 - (ii) A brief description of the length of time that the area to be managed has been in use for normal harvesting of forest products; and

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(iii) A copy of a forest management plan approved by the State Forester.

7. *Exemption 8.*

- a) A site plan certified by a licensed New Jersey Professional Engineer showing the proposed trail construction with details including the location, and width of existing and proposed trails and those off-site trails to which they connect, if any;
- b) A written description of the non-impervious materials to be used; and
- c) For privately owned property, a copy of a deed for the property, including the language establishing the conservation or recreational use easement on the property.

§ 9.1.3 Approvals Subject to Compliance

Approval of any land use-related application, 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 § 9.1.2A or § 9.1.2B 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.

- A. ***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 Borough Zoning Officer, Planner, Engineer, Planning Board, Zoning Board of Adjustment, Board of Health, Health Department.
- B. ***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 Borough 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.
- C. ***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.

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§ 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. ***Critical Habitat.*** Any application proposing disturbance of an area designated as Critical Habitat pursuant to § 6.4.
- B. ***Scenic Resources.*** Any application involving property which is located either, among those identified as containing a Highlands Scenic Resource (Exhibit 9), or which lies adjacent to any property containing or partially containing such Resources pursuant to § 6.12.
- C. ***New/Extended Utility Infrastructure.*** Any application proposing installation of new or extended water supply or wastewater collection/treatment utility infrastructure in any Zone or Sub-Zone other than the Existing Community Zone (excluding the Existing Community Environmentally Constrained Sub-Zone), pursuant to § 5.3.7.
- D. ***Net Water Availability.*** Any application proposing the use of Net Water Availability, unless a Water Use and Conservation Management Plan has been approved by the Highlands Council.
- E. ***Conditional Water Availability.*** Any application proposing the use of Conditional Water Availability involving subwatershed in a Current Deficit Area, unless a Water Use and Conservation Management Plan has been approved by the Highlands Council.

§ 9.1.5 Findings of Compliance

With regard to any application or any specific aspect of an application for which the Highlands Council 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;

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3. *Highlands Open Waters, Riparian Areas:* Limnologist, Wetlands or Riparian Scientist/Ecologist, Environmental Engineer;
 4. *Steep Slopes:* 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;
 6. *Water Conservation and Deficit Mitigation, Prime Ground Water Recharge Areas, Wellhead Protection Areas, Stormwater Management:* 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; and
 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).

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- b) The applicant shall provide all of the documents and materials required for submission under an Application for Development pursuant to § 9.2, 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 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 Borough Zoning Officer, Planner or Engineer.
 - 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.

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§ 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.

- 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 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

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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.
- 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, 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

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. Note this section requires completion prior to municipal adoption of the Highlands Ordinance.]*

- A. ***Municipal Exemption Determinations.*** The fees provided herein shall apply to applications for Municipal Exemption Determinations pursuant to § 9.1.2 of this Ordinance.
 1. Municipal Exemption Determination: \$_____
 2. Denied Application Amended for Compliance: \$_____
- B. ***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

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- 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, Highlands open waters, riparian areas, 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

- 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) Highlands Open Waters and/or Riparian Areas	
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.

C. ***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.

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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, Highlands open waters, riparian areas, 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 C.1 and C.2, above, shall be calculated by multiplying the existing escrow deposit requirement by 0.25 and adding the result to the amount determined under C.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 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* (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 for any eligible exemption listed at § 9.1.2; or
 2. Highlands Exemption Determination from the Highlands Council.
- 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 disturbance of Critical Habitat pursuant to § 6.4.2, Notice of Authorization issued by the Highlands Council.
 2. 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.

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3. 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.
 4. 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.
 5. For any application affecting a Scenic Resource pursuant to § 6.12, Notice of Authorization issued by the Highlands Council pursuant to § 6.12.3.
 6. For any application proposing installation of new or extended water supply or wastewater collection/treatment utility infrastructure in any Zone or Sub-Zone other than the Existing Community Zone (excluding the Existing Community Environmentally Constrained Sub-Zone), pursuant to § 5.3.7, Notice of Authorization issued by the Highlands Council.
- 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 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 Zone or Sub-Zone in which the property is located (available through Highlands Council website).

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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).
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 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 § 5.3.4.
 - b) For any application proposing 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) Existing and proposed septic system demand inclusive of calculations based on use and unit/square footage equivalents listed § 5.3.5.
 - b) For applications proposing new or increased septic system demand pursuant to § 5.3.2, septic system yield calculations based on § 5.3.5.
 - c) For any application involving aggregated septic system yield pursuant to § 5.3.5:

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- (i) Septic system yield calculations pertinent to all parcels, whether contributing or receiving such yield; and
 - (ii) Proposed Conservation Restrictions applicable to all contributing parcels, pursuant to § 5.3.5 and the provisions of § 7.3.
- d) 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 [*insert applicable Administrative Authority of the municipality*].
- e) 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.

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 § 9.4.14, 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.

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- 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.
 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 § 9.4.14, below.
- C. ***Cluster Development Requirements.*** For applications proposing Cluster Development pursuant to Article 8, all submission checklist items required pursuant to § 9.4.15, below.

§ 9.4.4 Forest Resources

- A. Plans identifying forests using the Highlands Council Forest Integrity Indicators and Total Forest GIS layers for forest resources.
- B. Information identifying upland forests within and if applicable, 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 § 6.1.5 through § 6.1.6, Forest Impact Report (§ 6.1.7) and Forest Mitigation Plan (§ 6.1.8).

§ 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 § 6.2.5 G.3, all items required as listed therein.
- C. For proposed disturbance of a previously disturbed Highlands Open Waters buffer, pursuant to § 6.2.5 G or Riparian Area, pursuant to § 6.2.6 A:

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1. A current property survey prepared by a licensed New Jersey Land Surveyor indicating: the metes and bounds of the subject property; the location and dimensions of existing buildings and other structures located thereon; the limits and extent of graded, compacted, filled or excavated areas, not including agricultural uses; the limits and extent of areas stripped of natural vegetation and of maintained lawn areas; and any other site improvements provided in support of prior development. The full extent of the proposed area of new disturbance shall be clearly indicated pursuant to § 9.4.2 A above, with the previously-disturbed area(s) illustrated on the same sheet using shaded or shadow outline features.
 2. Functional values assessment pursuant to § 6.2.7.
 3. Proposed Low Impact Development techniques.
- D. For proposed disturbance of High, Moderate or Low Integrity Riparian Areas pursuant to § 6.2.6 B:
1. Functional values assessment pursuant to § 6.2.7.
 2. Proposed Low Impact Development techniques.
 3. Riparian Area Mitigation Plan pursuant to § 6.2.6 B 1(e).

§ 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 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.

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§ 9.4.7 Critical Habitat

- A. Maps identifying Critical Habitat using the Critical Habitat GIS layer for Critical Wildlife Habitat, 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.

§ 9.4.9 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.
 - 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. For any existing or proposed Potential Contaminant Source (APPENDIX B and APPENDIX C), proposed Best Management Practices pursuant to § 6.9.3 A.

§ 9.4.10 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 each major or minor Potential Contaminant Source (APPENDIX B and APPENDIX C) on the property, whether existing or proposed, and for each, the relevant Tier and proposed Best Management Practices pursuant to § 6.9.3 A.
- C. Narrative and mapped description of the extent to which the application is consistent with the Areawide WQMP Plan.
- 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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§ 9.4.11 Agricultural Resource Areas (ARA)

- A. Map identifying the limits of the ARA as provided in this Ordinance.
- B. [*For municipal completion:*] Such additional plans and information as may be required in the review of any agricultural or horticultural development proposal pursuant to municipal provisions set forth at § 6.10.3.
- C. For Cluster/Conservation Design Development, all submission checklist items as provided at § 9.4.15, below.

§ 9.4.12 Scenic Resource Protection

- A. Map identifying Scenic Resources as provided in this Ordinance.

§ 9.4.13 Cluster/Conservation Design Development

- A. Property survey(s) identifying the limits and configuration of the proposed Cluster Project Area, inclusive of all contributing parcels in the case of noncontiguous clustering, and indicating all tract or parcel areas to the nearest one hundredth acre.
- B. Development plans applicable to the Development Set Aside of the Cluster Project Area, including all details as required pursuant to the municipal subdivision ordinance, to define and describe all proposed supporting infrastructure, including but not limited to: roadways, curbing, sight lines, street right-of-ways, utilities (e.g., water, sewer, gas, electric, telecommunications), stormwater management, lighting, street tree plantings, common areas, signage and landscaping.
- C. Development plans applicable to the Development Set Aside indicating proposed buffering, lot lay-out, lot sizes, configurations, and dimensions, building envelopes, building setbacks and yard areas.
- D. Proposed plans applicable to the Preservation Set Aside of the Cluster Project Area, including:
 - 1. For ARA applications proposing preserved farmland, information identifying farmland soil quality on the project site, including Prime, Statewide, Unique, and Locally Important farmland soils,
 - 2. Plans for Agricultural or Horticultural development, including all information required under § 9.4.12 B, above.
 - 3. Plans for open space preservation, if applicable, including active or passive recreation amenities.
 - 4. Proposed conservation restrictions pursuant to § 8.1.4, identifying intended dedications regarding all preserved portions, including those applicable to any noncontiguous parcels.
- E. Identification of any preserved land or land known to be targeted for preservation (agriculture and open space) located within 200 feet of the subject property.

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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 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, § 6.10.3 A, Agricultural and Horticultural Development, and § 8.1, Residential Cluster Development, 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, § 6.10.3A, Agricultural and Horticultural Development, and § 8.1, Residential Cluster Development, 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. *Mandatory Residential Cluster Development.* All provisions of § 5.2.1.
3. *Water Availability Requirements.* All provisions of § 5.3.4.
4. *Septic System Density.* Any application proposing a new or expanded septic system pursuant to § 5.3.2, in excess of the available (including any aggregated) septic system yield of the parcels associated with the application.

§ 10.3 WAIVERS AND EXCEPTIONS

Relief from any provision of Article 6 (with the exception of § 6.10.3 A) 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 Highlands Council. 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 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 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, and is subject to review by the Highlands Council. Any applicant seeking approval of an exception shall provide such

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justification, 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;
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 Borough Zoning Officer, Engineer, Health Department, Construction Code Official and any other officer or entity designated by the Borough 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 Borough Zoning Officer 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 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 The Code of Lebanon Borough. .

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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).

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 inches in diameter, two trees which are six inches in diameter, and one tree which is 15 inches in

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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) to be Major Potential Contaminant Sources include the following:

1. Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills.
2. Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials.
3. Any use or activity requiring the underground storage of a hazardous substance or waste in excess of an aggregate total of 50 gallons.
4. 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.).
5. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
6. Any industrial treatment facility lagoon.
7. Any industrial facility with a SIC Code number included under the New Jersey Safe Drinking Water Act Regulations at N.J.A.C 7:10A-1.14, Table II(N)A, with a toxicity number of II or greater. (See APPENDIX D.)
8. Automotive service center (repair & maintenance).
9. Landfill.
10. Dry cleaning processing facility.
11. Road salt storage facility.
12. Cemetery.
13. Highway maintenance yard.
14. Truck, bus, locomotive maintenance yard.
15. Site for storage and maintenance of heavy construction equipment and materials.
16. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.
17. 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.
18. Quarrying and/or mining facility.
19. Asphalt and/or concrete manufacturing facility.
20. Junkyard/auto recycling and scrap metal facility.
21. 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 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. Sanitary sewer system, including sewer line, manhole, or pump station.
5. Industrial waste line.
6. Septic leaching field.
7. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
8. Stormwater retention-recharge basin.
9. Dry well.
10. Storm water conveyance line.
11. Waste oil collection, storage and recycling facility.
12. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
13. Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
14. 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. MAJOR POTENTIAL POLLUTANT SOURCES

Facilities with Toxicity Ratings of II or Greater
N.J.A.C. 7:10A-1.14(c)4, Table II(N)A

<i>SIC Code for Industrial Facility*</i>	<i>Description of Industrial Facility which includes activities that may release hazardous substances</i>	<i>Toxicity Rating</i>
Any SIC Code	All ground water remediation of toxic substances, including priority pollutants	V
Any SIC Code	Contaminated storm water runoff from any type of facility listed below	
0721	Crop dusting and spraying	IV
10xx	Metal mining	V
12xx	Coal mining	III
1475	Phosphate rock mining	IV
22xx	Textile mills with finishing operations (dyeing, coating, etc.)	V
2491	Wood preserving	VI
2493	Reconstituted wood products	II
25xx	Furniture & fixtures with metal finishing	V
261x, 262x, 263x	Pulp, paper, and paperboard mills	V
27xx	Printing & publishing	II
2812	Inorganic chemicals, alkalies & chlorine	V
2813	Industrial gases	II
2816	Inorganic pigments	IV
2819	Industrial inorganic chemicals	IV
282x	Plastic materials & synthetic resins	V
283x	Drugs	V
284x	Soaps, detergents, etc.	III
285x	Paints, etc.	IV
2861	Gum & wood chemicals	III
2865, 2869	Industrial organic chemicals	VI
2879	Pesticides & agricultural chemicals	VI
289x, except 2891	Miscellaneous chemical products	IV
2891	Adhesives & sealants	V
29xx	Petroleum refining	V
30xx	Rubber & plastic products	IV
3111	Leather tanning & finishing	IV
331x, except 3313	Steel mills	VI
3313	Electrometallurgical products, except steel	III
332x	Iron & steel foundries	V
333x	Primary smelting, nonferrous metals	VI
334x	Secondary smelting, nonferrous metals	V
335x	Rolling, drawing, extruding, nonferrous metals	V
336x	Nonferrous foundries	V
339x	Miscellaneous primary metals products	V
341x, 342x, 343x, 344x, 345x, 346x, except 3431 & 3463	Fabricated metal products, with metal finishing	V

**SIC (Standard Industrial Classification) Codes are determined from the Federal Manual (1987) issued by the United States Office of Management and Budget.*

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<i>SIC Code for Industrial Facility*</i>	<i>Description of Industrial Facility which includes activities that may release hazardous substances</i>	<i>Toxicity Rating</i>
3431	Enameled sanitary ware, cast iron basis	VI
3463	Nonferrous forgings	V
347x	Plating & coating	V
348x	Ordinance, with metal finishing	V
348x	Ordinance, explosive load, assembly, packing	IV
349x, except 3497	Miscellaneous fabricated metal products, with metal finishing	V
3497	Metal foil & leaf	V
35xx	Industrial/commercial machinery & equipment, with metal finishing	V
36xx	Electronic equipment, with metal finishing or porcelain enameling	V
3624	Carbon & graphite products	V
3671	Cathode ray tubes	V
3672	Printed circuit boards	V
3674	Semiconductors	VI
3679	Electronic crystals only	III
3691, 3692	Batteries	IV
37xx, except 3731	Transportation equipment, with metal finishing	V
3731	Ship building	IV
38xx	Measuring, analyzing & controlling instruments, with metal finishing	V
3844, 3845	Measuring, analyzing & controlling instruments, with electron tube manufacture	V
3861	Photographic related chemicals	V
39xx	Miscellaneous manufacturing industries, with metal finishing	V
4231	Trucking terminals	III
4493	Marinas	III
4499	Water transportation services	III
46xx	Pipelines, except natural gas	V
4911, 4931	Electric services	IV
4941	Water supply treatment (public and industrial)	IV
4953	Solid waste facilities	IV
4953	Hazardous waste treatment facilities	VI
5052	Coal & other minerals & ores	V
5093	Scrap & waste materials	VI
5169	Chemicals & allied products	VI
5171	Petroleum bulk stations & terminals	V
5191	Farm supplies	IV
7211, 7215, 7216 & 7217	Laundries, dry-cleaning & carpet/upholstery cleaning	II
7213, 7218	Linen supply & industrial launderers	IV
7342	Disinfecting & pest control services	VI
7389	Solvents recovery services only	VI
7542	Car & truck washes	II
7699	Repair shops, with metal finishing	V
8062	General medical & surgical hospitals	VI
8069	Specialty hospitals	VI
8071	Medical laboratories	VI
8731	Commercial research organizations	IV
8733	Non-commercial research organizations	IV

**SIC (Standard Industrial Classification) Codes are determined from the Federal Manual (1987) issued by the United States Office of Management and Budget.*

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

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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;
 - vi. A list of conservation practices to be implemented;
 - vii. The location and schedule for applying new practices;

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- 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 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. Borough of Lebanon Highlands Planning Area, Highlands Zones and Sub-Zones
- Exhibit 2. Total Forest Area, Forest Subwatersheds
- Exhibit 3. Highlands Open Waters, Watershed Resource Value Areas
- Exhibit 4. Riparian Area, Riparian Subwatershed Integrity Areas
- Exhibit 5. Steep Slope Protection Area
- Exhibit 6. Critical Wildlife Habitat
- Exhibit 7. Carbonate Rock Area, Prime Ground Water Recharge Area, Wellhead Protection Areas
- Exhibit 8. Agricultural Resource Area
- Exhibit 9. ~~Highlands Historic, Cultural and Archaeological Resources~~; 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*]

HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MODEL HIGHLANDS CHECKLIST ORDINANCE FOR THE PLANNING AREA
REVISED DECEMBER 2014

BOROUGH/TOWNSHIP/TOWN OF _____
_____ COUNTY, NEW JERSEY

Pending Ordinance No. _____

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE
BOROUGH/TOWNSHIP/TOWN OF _____ 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 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

HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MODEL HIGHLANDS CHECKLIST ORDINANCE FOR THE PLANNING AREA
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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 **Borough/Township/Town of _____** is located in the Highlands Region with lands lying within the Planning Area only, as defined by section 7 of the Highlands Act; and

WHEREAS, the Governing Body of the **Borough/Township/Town of _____** has, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to **Borough/Township/Town** lands located within the Planning 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 **Borough/Township/Town**; 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 **(if applicable)**, **Planning/Land Use** 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 Preservation Area 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

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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, 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 municipality; and

WHEREAS, the Highland Council deems the immediate protections ascribed by this Ordinance to lands in the Planning Area, which include the whole 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 Borough/Township/Town of _____ that the Land Use Ordinance of the Borough/Township/Town of _____ 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 Borough/Township/Town Highlands Area (as illustrated in Exhibit 1, “Borough/Township/Town of _____ Highlands Area”) that seeks approval of a site plan, subdivision, or change in use, where approval of such Application would:

- A. For residential development, create three (3) or more dwelling units;
- B. For non-residential development:
 - 1. Result in the ultimate disturbance of one (1) acre or more of land;
 - 2. Produce a cumulative impervious surface area of one-quarter (1/4) acre, or more; or
 - 3. Introduce or expand on any of the following land uses/facilities:
 - a) Landfills;

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- 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.

All thresholds in A. and B., above, shall be interpreted to apply cumulatively over time, beginning as of the effective date of this Ordinance. If or when any one of the thresholds is reached, the Ordinance shall apply to any and all development in excess of that threshold. Where an application proposes a mixed use, the thresholds in B., for non-residential development shall apply to the whole of the project, while that in A., shall apply to the residential component. 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 Borough/Township/Town 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 1.B below, by the Applicant’s professional(s) that the application has been since review by the Highlands Council revised 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 Borough/Township/Town 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.

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C. CHECKLIST WAIVER. The Borough/Township/Town 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 Borough/Township/Town 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 specifically 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 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.

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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 one of the following:

1. *State Agency Determination.* State Agency Determinations shall consist of a Highlands Exemption Determination issued by the Highlands Council indicating that the proposal qualifies as a Highlands Act Exemption.
2. *Municipal Determination.* Pursuant to **Borough/Township/Town Ordinance #_____**, entitled "**Borough/Township/Town of _____** 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 protections as would apply in the case of a Highlands Exemption Determination issued by the Highlands Council.

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,

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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 permits pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).t

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 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.

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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

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

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

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

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.

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.

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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.

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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).

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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.