



State of New Jersey

Highlands Water Protection and Planning Council
100 North Road (Route 513)
Chester, New Jersey 07930-2322
(908) 879-6737
(908) 879-4205 (fax)
www.highlands.state.nj.us



Highlands Exemption Determination (Planning Area) **Application Form**

PLEASE TYPE OR PRINT CLEARLY

The Highlands Water Protection and Planning Act (Highlands Act) creates seventeen exemptions from the provisions of the Act (N.J.S.A. 13:20-28). If a project or activity falls within one of these 17 exemptions, the project or activity is exempt from: 1) the provisions of the Highlands Act; 2) the Highlands Regional Master Plan (RMP); 3) the Highlands Preservation Area rules adopted by the New Jersey Department of Environmental Protection (NJDEP); and 4) any amendments to the master plans, development regulations or other regulations adopted by a municipality or county and approved by the Highlands Council as required for Plan Conformance to the RMP. Fifteen of the seventeen exemptions listed in the Highlands Act apply to development projects or activities in the Planning Area and are under the jurisdiction of the Highlands Council. Presently, NJDEP administers Highlands Applicability Determinations regarding these exemptions in the Preservation Area but coordinates with the Highlands Council in issuing these determinations. Exemptions #3 and #17 are limited by definition in the Highlands Act to major Highlands development in the Preservation Area, and therefore do not apply to the Planning Area.

Any person that seeks confirmation of eligibility for an exemption under the Highlands Act for a Planning Area development project or activity in the Highlands Region may apply for a Highlands Exemption Determination letter from the Highlands Council. Information requirements for a Highlands Exemption Determination application to the Highlands Council are based upon the provisions of the Highlands Act as well as NJDEP's application requirements for exemptions codified in N.J.A.C. 7:38, subchapters 2 and 9. All persons seeking a Highlands Exemption Determination shall complete and file the following Application Form and supporting documentation listed in the sections below. An applicant may seek a waiver of an application submission item listed in this application and the Highlands Council may issue a waiver in such cases where the submission item is not applicable to the proposed development project or is unnecessary to the conduct of such review. A completed copy of the Application Form and all attachments shall be sent to:

New Jersey Highlands Council
ATTN: HIGHLANDS EXEMPTION DETERMINATION
100 North Road (Route 513)
Chester, NJ 07930

**** Additional information may be required upon review of the Application by the Highlands Council**

Please note that the Highlands Council will post and track applications for exemptions on the Highlands Council website. These will be linked to the project review page on the website where exemptions are listed.

An exemption approved by the Highlands Council does not alter or obviate the requirements of any other applicable federal, State or local laws, rules, regulations, development regulations, or ordinances. For example, while the construction activities of a single family dwelling may be authorized under an exemption,

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local building codes still apply to its construction, and water conservation requirements, septic system maintenance requirements, or any other activities related to the ultimate use of that dwelling are not exempt.

Highlands municipalities and counties may not issue Highlands Area Exemption Determinations unless specifically authorized to do so under delegation of authorization approvals issued by the Highlands Council. If you have questions about applying for a Highlands Planning Area Exemption Determination, please call the Highlands Council at (908) 879-6737.

This form includes the following sections:

Section I. General applicant information;

Section II. Information for determination whether Highlands regulatory requirements are applicable to a project in the Highlands Region.



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NOTE: Complete all sections of the form and provide one copy of the form and all attachments to the Highlands Council:

Section I. General Applicant Information

1. NAME OF PROJECT: _____

2. DATE OF APPLICATION: _____

3. PROPERTY OWNER:

NAME/AGENCY/COMPANY: _____

ADDRESS: _____

Street Address

Apt. or Suite Number

City

State

Zip

CONTACT PERSON: _____ TITLE: _____

PHONE: () _____ FAX: () _____ E-MAIL _____

4. APPLICANT OR AGENCY SUBMITTING REQUEST:

NAME/AGENT/ENGINEER: _____

AGENCY/COMPANY: _____

ADDRESS: _____

Street Address

Apt or Suite Number

City

State

Zip

PHONE: () _____ FAX: () _____ E-MAIL _____

CONTACT PERSON: _____ TITLE: _____

PHONE: () _____ FAX: () _____ E-MAIL _____

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5. LOCATION OF PROJECT:

- A. MUNICIPALITY: _____
- B. COUNTY: _____
- C. BLOCK & LOT(S): _____
- D. ADDRESS OF PROJECT SITE: _____
- E. TOTAL ACREAGE OF PROJECT SITE: _____
- F. STATE PLANE COORDINATES OF APPROXIMATE CENTER OF DEVELOPMENT AREA
X: _____ Y: _____
(See item number 7 below for information on obtaining state plane coordinates)

6. ADDITIONAL REQUIREMENTS:

- Municipal Tax Map(s) delineating the project site by Lot(s) and Block(s); and
- A copy of a USGS Quad map or portion thereof (1:24,000 scale, include title- name of Quad), with the project site boundaries clearly delineated (when requested by the Highlands Council); or
- GIS shapefile with the project site boundaries clearly delineated (when requested by the Highlands Council)

GIS coverage and the State Plane coordinates for a point at the approximate center of the site, using NAD 1983. The accuracy of these coordinates should be within 50 feet of the actual point. For assistance in determining the State Plane coordinates for a site, contact the Highlands Council's office at (908) 879-6737.

(NOTE: a disk containing the USGS Quad map information recorded in a digital GIS format at a minimum scale of 1:12,000 may be submitted in lieu of a hard copy)

7. DESCRIPTION OF PROJECT/ACTIVITY:

PROVIDE A NARRATIVE DESCRIPTION OF THE PROPOSED PROJECT OR ACTIVITY:

(Attach additional pages if necessary)

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SECTION II—Highlands Exemption Determination:

This section of the application form is to be used to apply for a Highlands Exemption Determination for all Planning Area exemptions (except for Exemptions #3 and #17) under N.J.S.A. 13:20-1 et seq.

NOTE: The person who signs the exemption request as the applicant must be the owner of the site, or a person with sufficient legal authority over the site to carry out all requirements of any authorization issued.

EXEMPTION APPLICATION REQUIREMENTS:

In addition to the requirements of Section I, to be deemed administratively complete an application for a Highlands Area Exemption Determination letter must include the following information for the type of exemption being requested, as listed below.

For purposes of Exemptions #1, #2, and #5, “single family dwelling” shall include those group homes, community residences, and other alternative living arrangements that are specifically authorized to be given equivalent treatment as a single family dwelling under the Municipal Law Use Law, N.J.S.A. 40:55D-1 et seq. and that are using or proposing to use a new individual subsurface disposal system or aggregate of equivalent disposal units where the sanitary wastewater design flow is 2,000 gallons per day or less.

For purposes of Exemptions #9 and #11, which require a finding that the project or activity is consistent with the goals and purposes of the Highlands Act, the Highlands Council uses the resource policies, objectives and requirements of the Regional Master Plan as a general measure of whether a project meets this threshold. Broad and extensive consistency with the substantive requirements as a whole must be found, but complete consistency with each individual requirement of the RMP is not required. This standard of review is based on the Act’s reference to the goals and purposes of the Act rather than consistency with the RMP itself.

Please check off the box to the left of the exemption number for the type of exemption being requested, and provide the information listed for that exemption:

- 1. For an exemption for the construction of a single-family dwelling on an undeveloped lot for an individual’s own use or the use of an immediate family member, the following information is required:
 - 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 as of August 10, 2004; or
 - If the applicant does not own the property or did not own it as of August 10, 2004, 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; and
 - An official document certifying that the single-family dwelling proposed for construction is intended for the applicants own use or the use of an immediate family member of the owner or buyer of the property identified in the certification by name and relationship to the applicant; and
 - A notarized statement, from the property owner, indicating that the property subject to the review has not been subdivided, merged, or in other ways had its lot lines adjusted subsequent to the date of the submitted deed; and
 - A land survey certified by a licensed New Jersey Professional Land Surveyor showing what currently exists on the lot.

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NOTE: If a municipal official can conclude by inspection of a submittal that a project meets the conditions to qualify for Exemption #1, then the municipality may issue all of the local permits that are needed for the project to begin construction, without the requirement of a Highlands Exemption Determination from the Highlands Council.

2. For an exemption for the construction of a single-family dwelling on an undeveloped lot that lawfully existed as of August 10, 2004, not for use by the owner of record as of that date or an immediate family member, provided that construction does not result in the ultimate disturbance of one or more acres or a cumulative increase in impervious surface by one-quarter acre or more the following information is required:
- A copy of a recorded deed or plat, closing or settlement statement, title policy, tax record, mortgage statement or any other official document showing that the lot was created on or before August 10, 2004; and
 - A notarized statement, from the property owner, indicating that the property subject to the review has not been subdivided, merged, or in other ways had its lot lines adjusted subsequent to the date of the submitted deed; and
 - A land survey certified by a licensed New Jersey Professional Land Surveyor showing the proposed metes and bounds disturbance area delineation, along with a narrative description of that area; and
(The metes and bounds disturbance area delineation is the total area of the site to be disturbed (which must be limited to less than 1 acre), including the proposed disturbance and the existing disturbance that is to remain.
 - A site plan certified by the appropriate licensed New Jersey Professional showing all existing development (distinguishing between what will be removed and what will remain) and proposed development, including all structures, grading, clearing, impervious surface that doesn't result in 0.25-acre or more, limits of disturbance that do not result in 1 acre or more, and the metes and bounds disturbance area delineation for the project. The site plan shall include supporting calculated values for proposed impervious surfaces, proposed areas of disturbance, and areas of existing disturbance to be restored (if any).
(Note: If a conservation restriction is required as a condition of your applicability determination, you will be notified in your determination letter.)
- ~~3. Developments with prior Municipal and DEP Approvals: Only applicable in Preservation Area. Exemption is limited by definition in the Highlands Act to major Highlands development in the Preservation Area.~~
4. For an exemption for reconstruction and limited expansion of any building or structure for any reason such that the final footprint of all impervious surfaces will be 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, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional showing all existing impervious surfaces, including all structures, grading, clearing, impervious surface and limits of disturbance, existing on the site on August 10, 2004; and all proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading. Also include supporting calculated values for existing and proposed impervious surfaces for the project/activity;
 - A land survey certified by a licensed New Jersey Professional Land Surveyor showing all existing impervious surface, including all structures, grading, clearing, impervious surface and disturbance limits, existing on the site on August 10, 2004; and
 - Photographs keyed to the site plan; and

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- A copy of any official documentation indicating the original date of construction of the building or structure or otherwise establishing the lawfulness of existing impervious surfaces (for example: a construction permit with the approved construction plan issued by a municipal official).
5. For an exemption for improvement(s) to a single-family dwelling in existence as of August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system where that improvement shall maintain the use as a single-family dwelling and does not permit use of the structure as a multiple dwelling unit, the following information is required:
- A copy of any official documentation proving the single-family dwelling was in existence on August 10, 2004;
 - A certification from the municipal clerk that the municipality considers the dwelling lawfully constructed and occupied;
 - A description of the proposed improvement; and
 - A certification from the applicant that the property and all improvements will continue to be used for single-family dwelling purposes.

NOTE: If a municipal official can conclude by inspection of a submittal that a project meets the conditions to qualify for Exemption #5, then the municipality may issue all of the local permits that are needed for the project to begin construction, without the requirement of a Highlands Exemption Determination from the Highlands Council.

6. For an exemption for any improvement, for non-residential purposes, to a place of worship owned by a non-profit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on 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, the following information is required:
- 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; and
 - 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; and
 - A site plan certified by the appropriate licensed New Jersey Professional showing all existing impervious surfaces, including all structures, grading, clearing, impervious surface and limits of disturbance, existing on the site on August 10, 2004; and all proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading; and
 - A certification of occupancy for any existing buildings or structures on the property.
7. For an exemption for any activity conducted by a landowner in accordance with an approved woodland management plan issued pursuant to the Farmland Assessment Act, N.J.S.A. 54:4- 23.3 or for public lands, the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester, the following information is required:

For a private landowner with an approved woodlot management plan:

- 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.; and
- A brief description of the activities for which the exemption is claimed including:
 - The total area of woodlands that is the subject of the approved woodland management plan;
 - The length of time that the area to be managed has been in use for woodland management; and
- A copy of the approved woodland management plan.

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For public lands with a forest management plan approved by the State Forester:

- A brief description of the activities for which the exemption is claimed including:
 - The total area where the normal harvesting of forest products occurs; and
 - The length of time that the area to be managed has been in use for normal harvesting of forest products; and
 - A copy of a forest management plan approved by the State Forester (contact the NJDEP at (609) 292-2531 for information on how to obtain a forest management plan).
8. For an exemption for 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 and filed with the deed for the lots on which the easement exists, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional 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; and
 - A written description of the non-impervious materials to be used; and
 - 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. For an exemption for 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 Water Protection and Planning Act and does not result in the construction of any new through-capacity travel lanes, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional showing the existing and proposed transportation or infrastructure system; and
 - A written description of the work to be conducted, the purpose of the activity and how that purpose is consistent with the goals and purposes of Highlands Water Protection and Planning Act; and
 - A brief description of the State entity or local government unit that is sponsoring and overseeing the proposed activities.

The following additional information *may be required* by the Highlands Council for those large scale transportation or infrastructure rehabilitation, reconstruction, or repair projects that the Highlands Council determines to be major in scope and character, which include:

- projects that cross municipal lines, or
 - projects that result in ultimate site disturbance of two acres or greater, or
 - projects that the Highlands Council determines would have a significant impact on one or more Highlands resources identified in the RMP
- An alternatives analysis that contains an examination of alternative routes or configurations that would avoid or minimize impacts to the Highlands Region under existing site conditions. This section should conclude with a “selected alternative” discussion, with full justification; and
 - A full copy of a completed Highlands Consistency Review Report in Adobe® pdf from the Highlands Consistency Review web tool (<http://maps.njhighlands.us/hgis/cons/>) shall be submitted to the Highlands Council for all parcels required for or directly affected by construction. In addition, a narrative analysis of the Report shall be submitted discussing the site specific consistency issues. The applicant may contact the Highlands Council to discuss alternative approaches for projects affecting a large number of parcels;
 - A listing of regulatory permits and approvals (e.g., Flood Hazard Area Control Act permit, WQMP amendment or revision, NJPDES, Freshwater Wetlands, Water Allocation or Registration, Green

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Acres Diversions) that will be obtained and a narrative that describes how potential RMP inconsistencies could be resolved through acquisition of these permits and approvals;

- A narrative describing how inconsistencies that could not be resolved through agency permits and approvals (i.e., those issues only under the purview of the Highlands Council) will be resolved; and
 - A narrative that describes a Comprehensive Mitigation Plan, including a proposed Monitoring and Mitigation Plan, to resolve RMP inconsistencies and how the applicant intends to ensure successful implementation of all mitigation elements.
10. For an exemption for 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, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional showing the proposed transportation safety project, bicycle or pedestrian facility; and
 - A written description of the specific type of project to be constructed and the purpose of the project; and
 - A brief description of the State entity or local government unit that is sponsoring and overseeing the proposed activities.
11. For an exemption for 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 Water Protection and Planning Act, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional showing the existing and proposed public utility lines, rights of way, or systems;
 - A written description of the work to be conducted, the purpose of the activity and how that purpose is consistent with the Highlands Water Protection and Planning Act; and
 - The identity of the public utility that is sponsoring the proposed activities.

The following additional information *may be required* for those large scale public utility line rehabilitation, reconstruction, or upgrade projects that the Highlands Council determines to be major in scope and character, which include:

- projects that cross municipal lines, or
 - projects that result in ultimate site disturbance of two acres or greater, or
 - projects that the Highlands Council determines would have a significant impact on one or more Highlands resources identified in the Regional Master Plan [RMP])
- An alternatives analysis that contains an examination of alternative routes or configurations that would avoid or minimize impacts to the Highlands Region under existing site conditions. (NOTE: an analysis prepared under NEPA, FERC or similar requirements may be submitted.) This section should conclude with a “selected alternative” discussion, with full justification; and
- A full copy of a completed Highlands Consistency Review Report in Adobe® pdf from the Highlands Consistency Review web tool (<http://maps.njhighlands.us/hgis/cons/>) shall be submitted to the Highlands Council for all parcels required for or directly affected by construction. In addition, a narrative analysis of the Report shall be submitted discussing the site specific consistency issues. The applicant may contact the Highlands Council to discuss alternative approaches for projects affecting a large number of parcels; and
- A listing of regulatory permits and approvals (e.g., Flood Hazard Area Control Act permit, WQMP amendment or revision, NJPDES, Freshwater Wetlands, Water Allocation or Registration, Green Acres Diversions) that will be obtained and a narrative that describes how potential RMP inconsistencies could be resolved through acquisition of these permits and approvals; and

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- A narrative describing how inconsistencies that could not be resolved through agency permits and approvals (i.e., those issues only under the purview of the Highlands Council) will be resolved; and
 - A narrative that describes a Comprehensive Mitigation Plan, including a proposed Monitoring and Mitigation Plan, to resolve RMP inconsistencies and how the applicant intends to ensure successful implementation of all mitigation elements.
12. For an exemption for the reactivation of rail lines and rail beds existing as of August 10, 2004, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional showing the location of the existing rail lines and rail beds; and
 - A brief description of the project for reactivation, including the sponsoring entity, the work to be conducted to accomplish the project, and an estimated schedule for completion. Include a discussion of activities that will take place within and outside of the existing disturbed area, with justification for why the latter should qualify as the reactivation of a rail line and rail beds.
13. For an exemption for 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, the following information is required:
- A copy of the public referendum question as it appeared on the official ballot; and
 - Documentation showing that the referendum was approved; and
 - A resolution from the municipal or county governing body or certification by an official in the relevant State department, as the case may be, that describes the proposed project and its location and affirms that the proposed project is the same as that approved in the referendum.
14. For an exemption for mining, quarrying, or the 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 as of June 7, 2004, the following information is required:
- A site plan certified by the appropriate licensed New Jersey Professional showing the location of existing and proposed activity and development; and
 - At least one relevant official documentation (tax records, local or state permits, bills of sale, lading etc.) demonstrating that the mine or facility was in existence and operating on June 7, 2004, and included the land on which the proposed activity or development will occur; and
 - A copy of a Certificate of Registration issued by the Commissioner of Labor pursuant to N.J.S.A. 34:6-98.4.
15. For an exemption for the remediation of any contaminated site pursuant to N.J.S.A. 58:10B-1 et seq., the following information is required:
- A copy of a site plan certified by the appropriate licensed New Jersey Professional indicating the area above or below ground where contamination will be removed or remedied;
 - A brief description of the remediation activity to be conducted including any structures, impervious surfaces, clearing of vegetation or water diversion being proposed;
 - A copy of a NJDEP or USEPA letter, application, order, or any other documentation demonstrating that the remediation activities are required in accordance with N.J.S.A.13:58:10B-1 et seq.; and
 - The name, address, phone number and email address, if available, of the case manager handling or supervising the remediation at NJDEP.
16. For an exemption for activities on lands of a federal military installation existing as of August 10, 2004, the following information is required:

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- A site plan certified by the appropriate licensed New Jersey Professional showing the general location of the proposed activities as being within the borders of a federal military installation and the activity's location with respect to the Highlands Region boundaries; and
 - A letter briefly describing the proposed activities signed by a supervisory official of the installation.
17. ~~Affordable Housing: Only applicable in Preservation Area. Exemption is limited by definition to major Highlands development in the Preservation Area.~~

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CERTIFICATION:

An application shall be certified as accurate by the person or persons specified below:

1. For a corporation, by a principal executive officer of at least the level of vice president with authority to sign for the corporation regarding such issues;
2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
3. For a municipal, county, State, federal, or other public entity, by either a principal executive officer or ranking elected official; or
4. For an entity not covered by (a) 1 through 3 above, by all individual property owners of record.

I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS ACCURATE, TO THE BEST OF MY KNOWLEDGE.

SIGNATURE: _____ DATE: _____

PRINT OR TYPE NAME _____

TITLE: _____

WHICH OF THE ABOVE CERTIFICATION CATEGORIES IS BEING PROVIDED?

Additional information may be required upon review by the Highlands Council

SEND COMPLETED APPLICATION FORM AND ATTACHMENTS TO:

**New Jersey Highlands Council
ATTN: HIGHLANDS EXEMPTION DETERMINATION
100 North Road (Route 513)
Chester, NJ 07930**