

21-02
ORDINANCE

**AMENDING THE TOWNSHIP OF POHATCONG
ZONING ORDINANCE OF 2000 TO UPDATE SUBMISSION REQUIREMENTS
FOR APPLICATIONS FOR DEVELOPMENT AND
ESTABLISH HIGHLANDS DISTRICTS**

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 adoption of the Highlands Regional Master Plan as well as various technical reports and guidelines that accompanied the Plan; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan; 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 Procedures detail the requirements for Plan Conformance including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources; and

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

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

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

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

WHEREAS, the Petition in addition included a request for Highlands Council designation of a Highlands Center, to be effectuated by additional Master Plan and Land Use Ordinance provisions and modifications, as needed to effectuate same; and

WHEREAS, the Township Petition for Plan Conformance, inclusive of the requested Highlands Center designation, was approved by the Highlands Council with conditions, as memorialized by Highlands Council Resolution #2011-23, adopted on August 3, 2011; and

WHEREAS, the Township Environmental Commission did subsequently adopt the revised Highlands Environmental Resource Inventory on March 7, 2013 and the Township Land Use Board did subsequently adopt an initial Highlands Master Plan Reexamination Report in August of 2013; and

WHEREAS, the Township Governing Body adopted the Highlands Planning Area Petition Ordinance (Ordinance #12-09) on September 18, 2012, and for application only to the Preservation Area, the Highlands Checklist Ordinance (Ordinance #15-12) September 15, 2015, as required pursuant to the Highlands Act and the Highlands Council Resolution approving the municipality's Petition for Plan Conformance; and

WHEREAS, the Governing Body finds that the remaining changes to the municipal planning program needed to complete the Plan Conformance process are of broad and significant effect, are vital to the protection of Highlands resources within the municipality, 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 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 Highlands Rules (N.J.A.C. 7:38-1 et seq.) and, with the exception of Wastewater Management Plans and Water Allocation Permits, remain without the full suite of Highlands Regional Master Plan protections during the interim period between the approval of the Petition for Plan Conformance and the adoption of the ordinances and regulations that will provide such protections; and

WHEREAS, the Governing Body is also aware that additional planning and potentially zoning work will be needed to fully guide and encourage appropriate development/redevelopment of lands within the Township's designated Highlands Center, in accordance with the municipality's goals and objectives pertinent thereto; and

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

WHEREAS, an immediate level of protection to ensure the goals for development and redevelopment within the Township's Center, shared by both the Highlands Council and the Township of Pohatcong, is integral to the intents for its designation; and

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

WHEREAS, the Governing Body finds that the adoption of such submission requirements is important not only to provide such immediate protections, but to ensure the proper management of Applications for Development; and

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

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Pohatcong that the Land Use Ordinance of the Township of Pohatcong be and is hereby amended to incorporate the provisions that follow below.

Article VIII, Penalties, is hereby replaced with the following entitled “Highlands Municipal Referral and Land Use Capability Zone Ordinance for the Planning and Preservation Areas”

Article VIII Highlands Municipal Referral and Land Use Capability Zone Ordinance for the Planning and Preservation Areas

§285-43 ESTABLISHMENT OF HIGHLANDS DISTRICTS

- A. **HIGHLANDS PRESERVATION AREA AND PLANNING AREA.** The Highlands Act establishes the Preservation Area and Planning Area of the Highlands Region. Each of these is incorporated into the Land Use Plan of the Highlands component of the municipal master plan.
- (1) The Preservation Area, to the full extent of its limits within the Township, is herewith adopted and established as an overlay to municipal zoning.
 - (2) The Planning Area, to the full extent of its limits within the Township, is herewith adopted and established as an overlay to municipal zoning.
- B. **HIGHLANDS ZONES.** The Highlands RMP establishes the Protection Zone, Conservation Zone, and Existing Community Zone, including within each, various subzones, each with its own purpose, application, and development criteria. The Highlands Zones are intended to ensure that the density and intensity of future development and redevelopment do not exceed the capacity of the land, natural resources and existing infrastructure to support them. The Township Master Plan incorporates the Highlands Zones as an integral component of the planning and land use policies of the municipality. Accordingly, the Highlands Zones and subzones, specifically including for purposes of this Ordinance, all “Environmentally-Constrained” subzones are adopted herewith and established as an overlay to municipal zoning.

- C. **HIGHLANDS CENTER.** The Township of Pohatcong's Highlands Center is a special district designated by the Highlands Council that occupies the northerly portion of the municipality's Planning Area. Excluded from Highlands Zones and subzones, the Highlands Center has its own purpose and development goals and intents, as discussed in both the Highlands Council's approval of the Township Petition for Plan Conformance and Pohatcong's follow-up 2013 Township Master Plan Reexamination Report. Accordingly, the Highlands Center is adopted herewith and established as an overlay to municipal zoning. The Highlands Center will be the subject of on-going planning initiatives as a component of the Township of Pohatcong Master Plan.
- D. **HIGHLANDS DISTRICTS MAP.** The Highlands Preservation Area, Planning Area, Highlands Zones, and designated Highlands Center are each hereby adopted as an overlay to the municipal Zoning Map. Highlands Districts are as indicated by the locations and boundaries designated for each respectively, in Exhibit 1 entitled "Township of Pohatcong Highlands Districts," dated July 2020, which is hereby declared to be a part of this Highlands Ordinance.

§285-44 APPLICABILITY

This Ordinance shall apply to any Application for Development 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;
 - [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 6 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," "residential development," "ultimate disturbance," and "cumulative impervious surface area" shall be defined as provided at Section 6 below.

§285-45 EXCLUSIONS AND EXEMPTIONS

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

- (1) The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
- (2) Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.
- (3) Any Agricultural or Horticultural Use or Development that would not result in either:
 - [a] An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 6, 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 shall consist of one of the following:

- (1) *State Agency Determination.* State Agency Determinations shall include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the

Highlands Council for a Planning Area proposal, in either case, indicating that the proposal qualifies as a Highlands Act Exemption.

- (2) *Municipal Determination.* Pursuant to Township Ordinance #16-02, entitled "Highlands Act Exemption Determinations," adopted on February 2, 2016, 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, or of a HAD issued by the NJDEP.

§285-46 HIGHLANDS COUNCIL REFERRAL REQUIREMENTS

A. CONSISTENCY DETERMINATIONS REQUIRED. No Application for Development included in Section 2 above, shall be deemed complete or considered for review by the applicable Township land use Board until and unless the Applicant has obtained and provided a copy of:

- (1) A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan and with the Highlands Council Resolution (#2011-23) granting approval of the municipality's Petition for Plan Conformance; 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 4.B below, by the Applicant's professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan and Highlands Council Resolution (#2011-23) granting approval of the municipality's Petition for Plan Conformance.

B. FINDINGS OF INCONSISTENCY. Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan or the Highlands Council Resolution (#2011-23) granting approval of the municipality's Petition for Plan Conformance, no such application shall be deemed complete or considered for review by the applicable Township land use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant's plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the application has been revised to achieve consistency with the Highlands Regional Master Plan and the Highlands Council Resolution (#2011-23) granting approval of the municipality's Petition for Plan Conformance, and specifically describing the revisions made to achieve such consistency.

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

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

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

§285-47 HIGHLANDS REGULATIONS

A. SEPTIC SYSTEM DENSITY

- (1) Preservation Area. Development proposals involving new or increased demand for septic system capacity in the Preservation Area shall be regulated in accordance with NJDEP Highlands Rules (N.J.A.C. 7:38). Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system.
- (2) Planning Area. All development proposing new or increased demand for septic system capacity in the Planning Area shall be regulated in accordance with this subsection. The following are gross septic density requirements and shall not modify any minimum lot size requirements contained in the Township land

development ordinance. Every development shall provide for a minimum acreage for each dwelling unit (or equivalent) as noted below. Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system, however.

[a] **Septic System Density Allowances.** Septic system density (gross acres per septic system) shall not exceed the following allowances, for each Highlands Zone:

[i] Existing Community Zone: 10 acres/septic system

[ii] Conservation Zone: 11 acres/septic system

[iii] Protection Zone: 28 acres/septic system

[b] These allowances indicate the minimum acreage required per septic system, where that system is designed for a one-family household generating a maximum flow of 300 gallons of wastewater per day. The resulting acreage shall be applied as the minimum average acreage necessary to support every 300 gallons of daily wastewater flow generated by any proposed use where the unit/square footage figures below shall be applied as 300 gallon-per-day equivalents.

[c] **Equivalent Yields.** The following unit/square footage figures shall be applied as 300 gallon-per-day equivalents:

[i] Residential Uses (All Types, except as provided below) – 1 dwelling unit

[ii] Deed-Restricted Senior Citizen Residential Units, or Mobile Home Parks with dwelling units less than 500 square feet in size – 1.5 dwelling units

[iii] Office and Commercial Uses – 2,400 square feet of floor area

[iv] Industrial (Including Warehousing/Distribution) Uses – 18,182 square feet of floor area (Excluding Process Wastewater Flow)

[v] Specific Non-Residential Uses by Facility Type – In lieu of c., or d., above, 300 gallon-per-day equivalents may be computed based on the average sewage volumes provided in N.J.A.C. 7:9A-7.4.

B. WATER AND WASTEWATER INFRASTRUCTURE

- (1) *Preservation Area.* New, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are prohibited unless approved through issuance of either a Highlands Applicability Determination indicating that a project is exempt from the Highlands Act, or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

- (2) *Planning Area – Protection Zone, Conservation Zone and Environmentally-Constrained Subzones.* New, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are prohibited.
- (3) *Planning Area – 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.

§285-48 DEFINITIONS

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

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

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

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

Applicant – means a developer submitting an Application for Development.

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

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

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

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

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

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

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

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

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

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

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

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

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

NJDEP – means New Jersey Department of Environmental Protection

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

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

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

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

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

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

Regional Master Plan (RMP) – means the Highlands Regional Master Plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

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

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

§285-49 Validity

- A. 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.

§285-50 Repealer

- A. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency only.
- B. Upon the effective date of this Ordinance, Township Ordinance #15-12, the Highlands Checklist Ordinance, applicable to development application submission

requirements for projects in the Highlands Preservation Area is hereby repealed.
This Ordinance replaces it in its entirety.

§285-51 When Effective

This ordinance shall take effect twenty (20) days upon passage and publication as required by law.

Introduced: January 19, 2021

APPENDIX A. MAJOR POTENTIAL CONTAMINANT SOURCES

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

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

APPENDIX B. MINOR POTENTIAL CONTAMINANT SOURCES

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

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

A new Article IX, Penalties, is hereby added as follows:

Article IX - Penalties

§ 285-52 Violations and penalties.

- A. Any property owner or agent who violates any provisions of this chapter or fails to comply with any condition of any zoning permit which has been issued by the Zoning Officer or undertakes construction of any building or structure which is the subject of a zoning permit but not in compliance with said zoning permit or who puts into use any lot or land in violation of this chapter and fails to abate such violation within 10 days after written notice has been served upon him,

either by mail or by personal service, upon conviction thereof shall be subject to a minimum fine of \$500 or up to a maximum fine of \$1,000 or imprisonment in the county jail for a term not exceeding 30 days, or both such fine and imprisonment at the discretion of the court. Each day that such violation continues shall be deemed to be a separate and distinct violation.

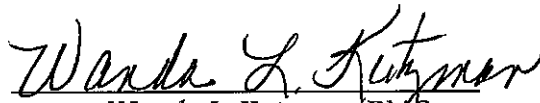
Introduced: January 19, 2021

Adopted: February 16, 2021

Certification:

I, Wanda L. Kutzman, Township Clerk of the Township of Pohatcong, County of Warren and State of New Jersey, DO HEREBY CERTIFY that this is a true and correct copy of an Ordinance presented and adopted upon second and final reading, after a public hearing at a meeting of the Township Council held on February 16, 2021. This Ordinance was adopted by Council with a vote of 5-0 (ayes: Babinsky, Gray, Melvin, Stillo and Slack, nays: none).

WITNESS, my hand and seal of the Township of Pohatcong on this 19th day of February 2021.


Wanda L. Kutzman, RMC
Township Clerk