

**TOWNSHIP OF CLINTON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE #1205-2024

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY,
NEW JERSEY REVISING THE TOWNSHIP'S HIGHLANDS LAND USE
REGULATIONS IN RESPONSE TO RECENT UPDATES TO THE HIGHLANDS
REGIONAL MASTER PLAN AND LAND USE CAPABILITY MAPS, AND AMENDING
AND SUPPLEMENTING CHAPTER 165 (LAND USE REGULATIONS) OF THE
"CODE OF THE TOWNSHIP OF CLINTON" ACCORDINGLY**

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

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

WHEREAS, the Highlands Regional Master Plan ("RMP") was adopted by the Highlands Council 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, the purpose of which is to guide the implementation of the Highlands Act; 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 RMP; and

WHEREAS, Section 15 of the Highlands Act also 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 RMP; and

WHEREAS, the Township of Clinton ("Township") is located entirely in the Highlands Region, with 643 acres in the Preservation Area and 21,064 acres in the Planning Area; and

WHEREAS, in 2009, the Township submitted a Petition for Plan Conformance to the Highlands Council for both areas, which was approved by the Highlands Council on June 18, 2015; and

WHEREAS, on January 27, 2021, the Mayor and Council adopted Ordinance No. 1147-2021, which established the Township's Highlands Land Use Regulations, which regulations were subsequently amended through the adoption of Ordinance No. 1182-2023 on May 10, 2023 to establish two Highlands Centers and several Highlands Area Resources Zones ("HERZ") as overlays to the Township's municipal zoning regulations; and

WHEREAS, the Highlands Council has adopted several amendments and additions to the RMP, including most recently Addendum 2024-3: Highlands Affordable Housing Amendment; Addendum 2024-2: Highlands Land Use Capability Zone (LUCZ) Map Technical Report Update; and Addendum 2024-1: Policy Standards for Warehousing in the New Jersey Highlands Region; and

WHEREAS, in addition, the Highlands Plan Conformance Committee created a new, more streamlined model ordinance; and

WHEREAS, on October 17, 2024, the Highlands Council issued an Affordable Housing Implementation Guidance document , which among things provides that "any conforming municipality that currently is utilizing the version of the Highlands Land Use Ordinance known as the "checklist" or "referral" ordinance shall adopt as a replacement, the newest version of the Highlands Land Use ordinance, as required by the Highlands Affordable Housing RMP Amendment."; and

WHEREAS, the model ordinance no longer contains a mandate that all residential development in the Agricultural Resource Area be clustered; and

WHEREAS, the Mayor and Council wish to replace the Township's current Highlands regulations with the provisions of the new Highlands model ordinance, including the appendices thereto, in order to ensure that the Township's regulations are consistent with and fully conform to the Highlands Council's amendments to the Highlands RMP and mapping, and to comply with the Highlands Council's requirement set forth in its recently-issued Affordable Housing Implementation Guidance document; and

WHEREAS, the Mayor and Council also wish to move the Township's Highlands Regulations from their current location to a new Part 11 in Chapter 165, to make them more readily identifiable;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey as follows:

SECTION 1. Preamble. The preamble to this ordinance is hereby incorporated as if restated in full.

SECTION 2. Current Highlands Land Use Regulations repealed and replaced with a new version of the Highlands Land Use Regulations. Sections 165-117.4 through 165-117.14 in Chapter 165 (Land Use Regulations), Part 7 (Zoning Regulations), Article XVI (General Provisions) of the “Code of the Township of Clinton” (“Code” or “Township Code”) are hereby repealed in their entirety and replaced with a new Part 11, “Highlands Land Use Regulations” to be added to Chapter 165 of the Code, which new part shall read as set forth in Exhibit A to this ordinance.

SECTION 3. Highlands Land Use Appendix Materials deleted from Code. The Highlands Land Use Appendix Materials contained in Attachment 6 to Chapter 165 of the Township Code shall be deleted/removed from said Code.

SECTION 4. Zoning map updated. The map entitled “Zoning Map, Clinton Township, Hunterdon County, NJ,” last updated pursuant to Ordinance No. 1202-2024, is hereby further amended by adding thereto the Highlands Environmental Resource Zones the Township established in 2023 through the adoption of Ordinance No. 1182-2023.

SECTION 5. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby repealed as to such inconsistencies only.

SECTION 6. Severability. If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.

SECTION 7. Referral to Planning Board. A copy of this ordinance shall be submitted to the Planning Board for master plan consistency review prior to its adoption.

SECTION 8. Filing with County Planning Board and Highlands Council. Upon its adoption, the Acting Clerk shall cause a certified copy of this ordinance to be filed with the Hunterdon County Planning Board and the New Jersey Highlands Council.

SECTION 9. Effective Date. This ordinance shall take effect twenty days after its final passage by the Mayor and Council and upon the filing of same with the Hunterdon County Planning Board and issuance by the New Jersey Highlands Council of a determination that the ordinance is (a) consistent with the Regional Master Plan or (b) not subject to Highlands Council review.

Lindsay Heller, Acting Township Clerk

Hon. Brian K. Mullay, Mayor

Date of introduction: November 13, 2024
Date of public hearing: December 11, 2024
Date of adoption: December 11, 2024

The foregoing ordinance was introduced on first reading at the November 13, 2024 meeting of the Mayor and Council of the Township of Clinton. It will be further considered for final passage following a public hearing to be held on **December 11, 2024, at 7:00 p.m.**, on the third floor of the Clinton Township Public Safety Building, 1370 Route 31 North, Annandale, NJ 08801, at which time and place anyone from the public wishing to be heard will be permitted to ask questions and offer comments regarding the ordinance. During the week prior to and up to and including the date of such meeting and public hearing, copies of the full ordinance will be available at no cost during regular business hours in the Office of the Township Clerk for members of the public who shall request a copy of same. The ordinance will also be available on the Township's website at <https://clintontwpnj.gov>.

If adopted, the Ordinance will replace the Township's current Highlands Land Use Regulations with a new more streamlined version of those regulations and will modify the location of said regulations in the Township Code. It will also eliminate the mandatory cluster requirements for residential development in the Agricultural Resource Area.

The proposed updated regulations were prepared in response to a new model ordinance that was created by the Highlands Plan Conformance Committee. The revisions will ensure that the Township's regulations remain consistent with recent amendments to the Highlands Regional Master Plan and mapping, including Addendum 2024-3: Highlands Affordable Housing Amendment.

EXHIBIT A

Chapter 165. Land Use Regulations

Part 11. Highlands Land Use Regulations

Article I. General Provisions

§ 165-265. Short Title

The regulations set forth in this Part 11 shall be known as the Township of Clinton “Highlands Land Use Ordinance” (abbreviated hereinbelow as “Township Highlands LUO,” “Township Highlands Regulations” or “Regulations”).

§ 165-266. Purpose

The purpose of the Township Highlands LUO is to effectuate the policies, goals and objectives of the Clinton Township 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” or “Highlands RMP”) as amended from time to time.

§ 165-267. Scope

- A. The provisions of the Township Highlands LUO pertain to the use and development of all lands located within Clinton Township as the municipality is entirely located within the Highlands Area. Clinton Township’s applicable Master Plan provisions, 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.
- B. Within the Township’s Planning and Preservation Areas, which comprise the entire municipality, the Township Highlands LUO acts as an overlay that governs certain land uses, development and redevelopment activities, and the management and protection of resources, including but not limited to water resources, natural resources, agricultural resources, scenic resources.
- C. The provisions of the Township Highlands LUO shall apply in conjunction with, and as a supplement to, the Clinton Township Land Use Regulations Ordinance (“LUO” or “Township LUO”), development regulations, and all other rules, codes and regulatory provisions governing the use and development of land in the Township. In the event of conflicting or less restrictive alternate provisions, the provisions of the Township Highlands LUO shall supersede. Under no circumstances shall the Township Highlands LUO supersede the provisions Township's LUO if the application of the provisions contained herein would result in uses not otherwise

permitted or densities, intensities or coverages that would exceed the maximums allowed by the Township's subdivision, site plan or zoning regulations.

§ 165-268. Statutory Authority

The provisions of this Part 11 are 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, agricultural, scenic and historic 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.

§ 165-269. Severability

If any section, sentence, clause or phrase of this Part 11 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.

§ 165-270. Petition for Plan Conformance in Highlands Planning Area

- A. The majority of Clinton Township is located within that portion of the New Jersey Highlands Region defined by the Highlands Act as the "Planning Area" (see definitions), while the remainder is located in the "Preservation Area". . The Township Highlands LUO is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1 *et seq.*), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to lands located within the Planning Area, and by ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.
- B. By adoption of the Township Highlands LUO, the Mayor and Council of the Township of Clinton have established that the municipality shall conform its master plan, development regulations, and all other regulations applicable to the use and development of land within the Preservation Area and Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan ("RMP" or "Highlands RMP"). Said conformance shall be in accordance with the provisions of Highlands Council approval of the Township's Petition for Plan Conformance, which was approved by Highlands Council Resolution No. 2015-13, adopted on June 18, 2015, and

subsequent amendments. Further, the Township Highlands LUO specifically reserves the rights of the Township as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

§ 165-271. Highlands Council Review of Township Land Development Ordinance Regulations.

Any amendment to the Clinton Township Land Development Regulations shall not be effective until deemed consistent with the Regional Master Plan or deemed not subject to review by the Highlands Council.

§ 165-272. Highlands Council Call-Up.

The Township Planning Board or Board of Adjustment, as applicable, shall, within fifteen (15) calendar days of the issuance of any Board approval or denial for a development application, under the Township Highlands LUO, provide a copy of the Board resolution to the Highlands Council. The Highlands Council call-up review period shall expire 15 calendar days following the Highlands Council's receipt of same. Any Board approval or denial issued under the Township Highlands LUO shall not be effective until the expiration of the call-up period, or upon notification that the Highlands Council is exercising its review authority and an approval issued by the Highlands Council. Absent any notification from the Highlands Council within the 15-day timeframe, the Board resolution shall be considered effective.

Article II. Applicability; Highlands Council Review; Exclusions; Exemptions

§ 165-273. Applicability.

A. The following applications for development involving lands located within (or partially within) the Clinton Township Highlands Area (as illustrated in the Township's Zoning Map) shall comply with the provisions of the Township's Highlands LUO:

- (1) In the Preservation Area:
 - (a) Any non-residential development in the Preservation Area;
 - (b) Any residential development that creates three or more dwelling units, except as otherwise required herein for single and two-family development;
 - (c) Any residential development in the Preservation Area that requires an environmental land use or water permit;

- (d) Any residential development 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;
 - (e) 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
 - (f) 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 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.
- (2) In the Planning Area:
- (a) For residential development, creates three (3) or more new dwelling units, except as otherwise required herein for single and two-family development.
 - (b) For non-residential development:
 - [1] Results in the ultimate disturbance of one (1) acre or more of land; or
 - a. Produces a cumulative impervious surface area of one-quarter ($\frac{1}{4}$) acre, or more.
- (3) In either the Preservation or the Planning Area:
- (a) Introduces or expands on any of the following land uses/facilities:
 - [1] Landfills;
 - [2] Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
 - [3] Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;
 - [4] Industrial treatment facility lagoons;

[5] Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of these Regulations, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined herein; or

[6] Any other use not permitted by the Township Highlands LUO.

B. All thresholds in A. and B., above, shall be interpreted to apply cumulatively over time, beginning as of January 27, 2021. If or when any one of the thresholds is reached, the Township Highlands LUO 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 the Township Highlands LUO, the phrases “Application for Development,” “Highlands Area,” “Residential Development,” “Ultimate Disturbance,” and “Cumulative Impervious Surface Area” shall be defined as provided herein.

§ 165-274. Exclusions.

A. Any application for development as follows below shall not be subject to any of the provisions of the Township Highlands Regulations.

(1) The reconstruction, within the same footprint, of any building or other structure lawfully existing as of January 27, 2021, 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 January 27, 2021, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to people with disabilities.

(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 as defined by the Highlands RMP. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Article III, Definitions);

or

- (b) Construction of three (3) or more residential dwelling units (including accessory dwelling units) served by individual on-site septic systems.
- (4) In addition, the Township Highlands LUO shall not apply to the following exclusions:
- (a) The reconstruction, within the same footprint, of any building or other structure lawfully existing as of January 27, 2021, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
 - (b) Any improvement or alteration to a building or other structure lawfully existing as of January 27, 2021, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.
 - (c) The repair or maintenance of any building or other structure lawfully existing as of January 27, 2021. This exclusion shall not be construed to permit repairs or maintenance activities that alter the footprint of such building or structure.
 - (d) The interior improvement, rehabilitation, or modification of any building or other structure lawfully existing as of January 27, 2021. 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 Township Highlands LUO shall not apply to any change in use of a building or other structure lawfully existing as of January 27, 2024. This exclusion shall not be construed to permit activities that alter the footprint of such building or structure.
 - (f) 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 Subsection A(4)(a), above, for single-family dwellings. Furthermore, this exclusion shall not be construed to apply the Township's

Highlands Regulations to single-family residential development with such features in excess of 50 square feet that are otherwise excluded or exempted from the requirements of these Regulations..

- (g) Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of the Township's Highlands Regulations shall not apply to any application for which a Highlands Preservation Area Approval (defined in Article III, Definitions) has been issued by the New Jersey Department of Environmental Protection.
- (h) Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of the Township's Highlands Regulations shall not apply to agricultural or horticultural use and development (as defined in Article III, Definitions).
- (i) The provisions of the Township's Highlands Regulations shall not apply to property located within the Planning Area with regard to the maximum impervious coverage regulations set forth in Attachment 3, Schedule of Zoning Requirements, of Chapter 165 or provided elsewhere in Chapter 165 for any individual zone established in §165-85, Establishment of Districts.

§ 165-275. Exemptions.

- A. Any application for development exempt from the provision of the Highlands Act (C.13:20-28) shall be exempt from all provisions of the Township Highlands LUO (with the exception of Article VII, Affordable Housing, of these Regulations). 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 include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by Clinton Township for a Planning Area proposal, in either case, indicating that the proposal qualifies as a Highlands Act Exemption.
 - (2) 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 (for Planning Area exemptions) or the NJDEP (for Preservation Area exemptions) 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, or of a HAD issued by the NJDEP.

- (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 approving municipal authority, provide sufficient proofs,, including a completed Highlands Exemption form provided by the Township, as set forth under Article IX, Application review procedures and requirements, of the Township Highlands LUO, that the proposed activity, improvement, or development project qualifies as a Highlands Act Exemption.

B. The activities, improvements and development projects listed below are herewith exempt from the provisions of the Township Highlands LUO, 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. Highlands exemptions apply to both the Preservation Area and the Planning Area, except for exemptions No. 3 and No. 17 which only apply 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 1/4 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:
- [1] Preliminary or final site plan approval;
 - [2] Final municipal building or construction permit;
 - [3] Minor subdivision approval where no subsequent site plan approval is required;
 - [4] Final subdivision approval where no subsequent site plan approval is required; or
 - [5] Preliminary subdivision approval where no subsequent site plan approval is required;
- and
- (b) At least one of the following permits from the NJDEP, if applicable to the proposed major Highlands development:
- [1] A permit or certification pursuant to the Water Supply Management Act, P.L. 1981, c. 262 (N.J.S.A. 58:1A-1 *et seq.*);
 - [2] A water extension permit or other approval or authorization pursuant to the Safe Drinking Water Act, P.L. 1977, c. 224 (N.J.S.A. 58:12A-1 *et seq.*);
 - [3] A certification or other approval or authorization issued pursuant to the Realty Improvement Sewerage and Facilities Act (1954), P.L. 1954, c. 199 (N.J.S.A. 58:11-23 *et seq.*); or
 - [4] A treatment works approval pursuant to the Water Pollution Control Act, P.L. 1977, c. 74 (N.J.S.A. 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 §165-280B(3)(b)[1] through [4] above:

- [1] A permit or other approval or authorization issued pursuant to the Freshwater Wetlands Protection Act, P.L. 1987, c. 156 (N.J.S.A. 13:9B-1 *et seq.*); or
- [2] A permit or other approval or authorization issued pursuant to the Flood Hazard Area Control Act, P.L. 1962, c. 19 (N.J.S.A. 58:16A-50 *et seq.*).

The exemption provided in this subsection shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to §165-275B(3)(a) and (b) or (c) if applicable, of this subsection; 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 1/4 acre or more.
 - (a) 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) The applicable date of lawful existence shall coincide with the date of enactment of the Highlands Act, or August 10, 2004.
 - (c) These provisions shall not be construed to exempt any change in use of such reconstructed building or structure from the applicable provisions of the Township's zoning regulations.
 - (d) This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a nonagricultural or nonhorticultural use.
- (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 nonresidential 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 (N.J.S.A. 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 (or impervious surfaces in the Planning Area) 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 (N.J.S.A. 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 (N.J.S.A. 52:18A-196 *et seq.*) as of March 29, 2004, or subsequent state development plan, 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 exemption provided pursuant to this subsection shall expire if construction beyond site preparation has not commenced within three years after receiving all final approvals required pursuant to the MLUL.
- C. Major Highlands development. Any proposed project, development or activity that meets the definition of a major Highlands development (see Article III, Definitions) is subject to all applicable requirements and provisions of the New Jersey Department of Environmental Protection (NJDEP) Highlands Water Protection and Planning Act Rules ("NJDEP Preservation Area Rules," N.J.A.C. 7:38-1 *et seq.*). By definition, such projects, developments and activities pertain solely to the Preservation Area of the Highlands Region. Nothing in the Township's Highlands Regulations shall be construed to waive, obviate, modify or otherwise exempt any covered project, development or activity, or any person(s) proposing or involved in such initiatives, from the provisions of the NJDEP Preservation Area Rules.
- D. Non-major Highlands development. Non-major Highlands development constitutes any development not defined as a major Highlands development. Non-major Highlands development includes projects, development and activities in the Planning Area and in the Preservation Area. Any project, development or activity proposed within the Preservation Area or the Planning Area that does not meet the definition of a major Highlands development shall remain subject to the provisions of these Regulations, as provided (with specified exclusions) pursuant to Subsection A above.
- E. Prior development approvals.
- (1) Preservation area. Any developer, owner or applicant (as applicable) associated with a development application that has received lawful approval(s) pursuant to the MLUL since the date of enactment of the Highlands Act (August 10, 2004) but prior to January 27, 2021 shall retain all of the rights and protections accorded and prescribed under the MLUL with regard to such approval(s). These protections shall apply to the specific land area and scope of the approvals granted, in accordance with any

conditions attached thereto, subject to the approvals of any applicable state, county or other outside agency having jurisdiction thereon including the NJDEP and specifically, the NJDEP Preservation Area Rules (N.J.A.C. 7:38) applicable to the Highlands Preservation Area, and shall expire if (and in such event, when) such approval expires. The provisions of the Township's Highlands Regulations 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.

- (2) Planning area. Any developer, owner or applicant (as applicable) associated with a development application that has received lawful approval(s) pursuant to the MLUL prior to January 27, 2021 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 the Township's Highlands Regulations 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.

Article III. Definitions

§ 165-276. Definitions.

For the purpose of the Township Highlands LUO, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of these Regulations 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. In the absence of a defined term in the Township Highlands LUO or in the Highlands Council RMP, all other defined terms in Chapter 165, Land Use Regulations, shall apply. In all other cases the terms defined in the Township Highlands LUO or the Highlands Council RMP shall supersede for purposes of the Township Highlands Regulations only.

AGRICULTURAL IMPERVIOUS COVER

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

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.

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

CARBONATE ROCK

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

CRITICAL WILDLIFE HABITAT

Within the Planning Area, Critical Wildlife Habitat consists of those areas within NJDEP's Landscape Project Version 3.3 (or more recent version as amended) that are Landscape Rank 3 through 5. In addition, it includes areas that are designated Landscape Rank 2 and have a Highlands Conservation Rank of Critically Significant or Significant. Within the Preservation Area, Critical Wildlife Habitat consists of those areas within Landscape Rank 2 through 5, including all Highlands Conservation Ranks. Parcel level mapping may be found on the Highlands Council's interactive map available through the Highlands Council website.

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 HUC 14 subwatershed characterized by negative net water availability, meaning that existing consumptive and depletive water uses exceed the capacity of the groundwater supply to sustain them.

DEFORESTATION

The conversion of forested areas to nonforested areas, whether for use as urban land, or any other nonforest land use; disturbance of an area characterized as "forest" pursuant to the procedures provided in the Highlands RMP the extent or effect of which is to disqualify the area from such designation.

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.

DISTURBANCE

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

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.

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 nonpoint 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.

FOREST

A biological community as determined by the method set forth under the NJDEP Highlands Rules, at N.J.A.C. 7:38-3.9.

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.

HAZARDOUS SUBSTANCE

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

HAZARDOUS WASTE

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

HIGHLANDS ACT

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)

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

HIGHLANDS AREA

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

HIGHLANDS CENTERS

Areas designated on the Clinton Township Zoning Map where development and redevelopment is planned and encouraged as regulated in §165-277.

HIGHLANDS COUNCIL

The New Jersey Highlands Water Protection and Planning Council.

HIGHLANDS DEVELOPMENT, MAJOR

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

HIGHLANDS DEVELOPMENT, NON-MAJOR

Non-Major Highlands Development constitutes any development not defined as a Major Highlands Development. Non-Major Highlands Development includes projects, development and activities in the Planning Area and in the Preservation Area. Any project, development or activity proposed within the Preservation Area or the Planning Area that does not meet the definition of a Major Highlands Development shall remain subject to the provisions of this Ordinance, as provided (with specified exclusions) pursuant to §165-275.B above.

HIGHLANDS ENVIRONMENTAL RESOURCE ZONE (HERZ)

The environmentally sensitive areas of the Township's Highlands Centers as delineated on Clinton Township's Zoning Map and regulated in §165-278.

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 identified in the Highlands Region Interactive ERI at <https://www.highlandseri.com/> or subsequently identified or modified by a Letter of Interpretation issued by the New Jersey Department of Environmental Protection.

HIGHLANDS OPEN WATERS BUFFER

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

HIGHLANDS PRESERVATION AREA APPROVAL

A Highlands Preservation Area Approval (HPAA) is a permit required in order to undertake any activity regulated pursuant to the Highlands Act.

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 REGION

All that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

HIGHLANDS REGIONAL MASTER PLAN (RMP)

For purposes of these Regulations, 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."

HIGHLANDS RESOURCE AREA DETERMINATION (HRAD)

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

HIGHLANDS SCENIC RESOURCE INVENTORY

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

HIGHLANDS SPECIAL ENVIRONMENTAL ZONE

Those areas as designated as Special Environmental Zone in the Regional Master Plan. Special Environmental Zones are only located in the Preservation Area.

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 fourteen-digit HUC, within which water drains to a particular receiving surface water body.

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.

LAND USE CAPABILITY ZONE MAP (“LUCZM”)

The map prepared by the Highlands Council which depicts the various Highlands land use capability overlay zones and subzones in accordance with the Highlands Act and Highlands Regional Master Plan.

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 POTENTIAL CONTAMINANT SOURCES (MAJOR PCS)

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 (MINOR PCS)

Land uses and activities determined by the Highlands Council to pose a minor risk of ground water contamination (see APPENDIX B).

MLUL

See “Municipal Land Use Law”

MUNICIPALLY IMPORTANT GROUNDWATER RECHARGE AREAS

Preserved or constrained lands that cannot be developed or built upon under current regulations and that have recharge rates above the median recharge rate for the subwatershed in which they are located. They provide 40% or greater total recharge volume for the subwatershed. Constrained lands are comprised of undeveloped lands within the Highlands Open Water buffer as well as moderately and severely constrained steep slopes. Preserved lands are those that as of 2015 were permanently preserved by local, county, state, federal or non-profit entities and that also meet or exceed the average recharge value for the subwatershed in which they are located.

MUNICIPAL LAND USE LAW

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

NATURAL HERITAGE PRIORITY SITE

Any of the 95 NJDEP Natural Heritage Priority Sites, including habitat for documented threatened and endangered plant species, and lands that include unique or regionally significant ecological communities and other significant natural sites and features.

NJDEP

The New Jersey Department of Environmental Protection

NJDEP HIGHLANDS AREA RULES

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

NONPUBLIC WELL

Any water supply well used for potable purposes other than a public community or noncommunity water supply well.

PLANNING AREA

Lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7) as delineated on the Clinton Township Zoning Map.

PLAN CONFORMANCE

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.

PRESERVATION AREA

That portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act as delineated on the Clinton Township Zoning Map.

PRIME GROUND WATER RECHARGE

As applied to Clinton Township, see "Municipally Important Groundwater Recharge."

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 NONCOMMUNITY WATER SYSTEM

A public water system that is not a public community water system and is either a "public nontransient noncommunity water system" or a "public transient noncommunity water system" as defined herein.

PUBLIC NONCOMMUNITY 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 NONTRANSIENT NONCOMMUNITY WATER SYSTEM

A public water system that is not a public community water system and that regularly serves at least 25 of the same persons for more than six months in any given calendar year.

PUBLIC TRANSIENT NONCOMMUNITY WATER SYSTEM

A public water system that is not a public community or a public nontransient noncommunity 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 noncommunity water system" as defined herein.

QUALIFIED ENVIRONMENTAL PROFESSIONAL

Someone who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions.

REGIONAL MASTER PLAN (RMP)

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

RESIDENTIAL DEVELOPMENT

Development dedicated to the creation of new dwelling units or the improvement or expansion of existing dwelling units, whether by new construction or conversion of existing building areas or portions thereof, to dwelling use, including any type of residential structure whether a single-family home (including group home), duplex, townhouse, apartment or any other form of multi-family housing construction. For purposes of the Township Highlands LUO, residential development shall include property improvements associated with and either, required in support of or customarily accessory to, the residential use, including but not limited to porches, patios, decks, driveways, garages, storage sheds, swimming pools, tennis courts, drywells, utility facilities, septic systems, yard grading and retaining walls.

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 WILDLIFE CORRIDOR

A 300-foot corridor on each mapped stream bank or from the stream centerline if no stream bank is mapped.

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.

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.

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-foot vertical rise over a ten-foot horizontal run has a slope of 10%. A ten-foot vertical rise over a twenty-five-foot horizontal run indicates a slope of 40%.

SLOPES, CONSTRAINED

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

SLOPES, LIMITED CONSTRAINED

All non-riparian area lands having a slope of 15% to less than 20%, which are nonforested, 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.

SLOPE, STEEP

Any slope having a grade of 15% or more or, if situated in a riparian area, of 10% or more.

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.

VERNAL POOL

A NJDEP-certified vernal pool plus a 300-meter-wide protection buffer surrounding the perimeter of each such pool. Vernal Pools consist of confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels.

VIEWSHED

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

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 groundwater uses from groundwater availability.

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.

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.

Article IV. Establishment of Highlands Districts.

§ 165-277. Highlands Preservation Area and Planning Area.

- A. In accordance with the delineation as set forth in the Highlands Act (C.13:30-7), Clinton Township hereby establishes and incorporates into its Master Plan the Preservation Area and Planning Area of the Highlands Region within the Township as delineated on the Clinton Township Zoning Map.
- B. For purposes of the Township Highlands LUO, these areas shall henceforth be known and designated as the Clinton Township Highlands Area, inclusive of the goals applicable to each the Preservation Area and Planning Area, as an integral component of the planning and land use policies of the Township. These areas shall apply to the full extent of their limits as an overlay to municipal zoning.

§ 165-278. Highlands Centers.

The Highlands Regional Master Plan allows municipalities to designate Highlands Centers as a planning tool to encourage development and redevelopment in appropriate areas which typically include access to utilities and regional transportation. The intent is to provide a balance between providing support for managed economic growth while discouraging development in environmentally sensitive areas to protect critical natural, agricultural, scenic and historic resources. The Highlands Centers established hereinbelow were incorporated in an amendment to the Township's Petition for Plan Conformance approved by the Highlands Council in June 2022.

- A. In accordance with New Jersey Highlands Council Resolution No. 2022-12, adopted June 16, 2022, and the provisions of the Highlands RMP, the following Highlands Centers as described below, are hereby established as overlays to municipal zoning:
 - (1) Annandale Highlands Center. The Annandale Highlands Center is generally located east of the Township's border with the Town of Clinton and generally surrounding the New Jersey Transit train station in Annandale, as depicted on the Clinton Township Zoning Map.
 - (2) Northern Route 31 Highlands Center. The Northern Route 31 Highlands Center generally lies to the north of the Town of Clinton along New Jersey State Highway Route 31, as depicted on the Clinton Township Zoning Map.

- C. Highlands Center policies. Throughout both of the Township’s Highlands Centers, the policies applicable to the Existing Community Zone shall apply to the entirety of the Centers, except for those areas designated Highlands Environmental Resource Zones (HERZ) pursuant to §165-279 below.

§ 165-279. Highlands Environmental Resource Zones.

A Highlands Environmental Resource Zone (HERZ) is an area intended by the Highlands RMP to delineate the most environmentally sensitive resources within a Highlands Center and protect those areas through the application of Protection Zone criteria. The Clinton Township Highlands Environmental Resource Zones are hereby created and established as an overlay to municipal zoning, as further described hereinbelow:

- A. The Township HERZ comprise a total land area of approximately 100 acres designated within the Annandale Highlands Center and Northern Route 31 Highlands Center, as depicted on the Clinton Township Zoning Map. The Protection Zone policies set forth in the Township Highlands LUO shall apply within the HERZ.
- B. Within the HERZ, existing developed land uses that are dependent upon individual on-site subsurface septic disposal systems shall be eligible for connection to the public wastewater collection and treatment system when capacity of those utilities become available. Such connections shall be consistent with the use and intensity of development on individual lots dependent upon individual on-site wastewater treatment systems in existence as of June 16, 2022.

§ 165-280. Highlands Land Use Capability Zones

In accordance with the Highlands RMP establishes three primary Land Use Capability Zones (“LUCZ”) (the Protection Zone, Conservation Zone and Existing Community Zone) and four LUCZ 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 Clinton Township Master Plan incorporates the Highlands zones and sub-zones as an integral component of the planning and land use policies of the municipality. In keeping with the Land Use Plan Element of the Clinton Township Master Plan, the Township’s Highlands Zones and Sub-Zones are herewith established as overlays to existing municipal zoning.

§ 165-281. Highlands Area District Maps.

The following exhibits are hereby incorporated by reference:

- A. Zoning Map. The Township of Clinton's Zoning Map established in §165-86 and attached to Chapter 165 as Exhibit A depicts the boundaries of the Township's Highlands Preservation Area, Highlands Planning Area, Highlands Centers and Highlands Environmental Resource Zones ("HERZ").
- B. Highlands Land Use Capability Map Series. The Township's Highlands Land Use Capability Maps including its Land Use Capability Zone Map, Land Use Capability Water Availability Map, Land Use Capability Public Community Water Systems Map, Land Use Capability Domestic Sewerage Facilities Map, and Land Use Capability Septic System Yield Map are available via the Highlands Region Interactive ERI at <https://www.highlandseri.com/> which may be updated at the discretion of the Highlands Council and applicable governmental agencies.
- C. The Township's Highlands Resource Maps including, but not limited to, Wellhead Protection Areas, Highlands Open Water Buffers, Highlands Riparian Areas, New Water Availability, Forest Areas, Prime (Municipally Important) Groundwater Recharge Areas, and Special Environmental Zones are available via the Highlands Region Interactive ERI at <https://www.highlandseri.com/> which may be updated at the discretion of the Highlands Council and applicable governmental agencies.

Article V. Prohibited Uses

§ 165-282. Prohibited Uses

- A. The following uses are prohibited within the Highlands Area:
 - (1) Landfills;
 - (2) Facilities for the permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
 - (3) Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials; and
 - (4) Industrial treatment facility lagoons.
 - (5) Any other uses prohibited by the Clinton Township Land Use Regulations.
 - (6) Any other uses prohibited under the Highlands RMP.

- B. Any principal or accessory use, or structure related or devoted to such use, which is designated by the Highlands Council as a Major or Minor Potential Contaminant Source (PCS) (see Appendix A and Appendix B is expressly prohibited from that portion of any Tier 1 Wellhead Protection Area lying within 200 feet of the wellhead as shown on as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/>.

Article VI. Highlands Area Resource Regulations

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 Clinton Township 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 Clinton Township Master Plan, the Highlands Resource Areas and Special Protection Areas present in the Township, including any not specifically identified in the Township's Highlands LUO, are herewith established as overlays to municipal zoning.

§ 165-283. Highlands Open Waters

A. Highlands Open Waters and Buffers:

All Highlands Open Waters shall include a minimum 300-foot-wide protection buffer, as measured from the edge of the Highlands Open Waters feature indicated in the Highlands Region Interactive ERI at <https://www.highlandseri.com/>.

- (1) No disturbances of Highlands Open Waters are permitted except where previously approved by the Highlands Council.
- (2) Highlands Open Waters buffers shall be maintained in their undisturbed or pre-existing condition, unless a disturbance is approved in accordance with following:
 - (a) Where a NJDEP a Letter of Interpretation (LOI) or Highlands Resource Area Determination (HRAD) has been issued delineating the location a wetland, the boundaries of said wetland as identified shall govern. However, the buffer shall be 300 feet irrespective of the buffer identified in the LOI.
 - (b) With respect to any wetlands and other Highlands Open Waters features not mapped on the Highlands Region Interactive ERI at <https://www.highlandseri.com/>, each shall include a 300-foot wide protection buffer measured from a delineated wetlands line described in a LOI, from a field-delineated boundary line for other

features, or as indicated by a Highlands Resource Areas Determination (HRAD) issued by the NJDEP.

- (c) Any lawful pre-existing structure or improvement located within a Highlands Open Waters protection buffer area 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.
- (d) Disturbances of Highlands Open Waters buffers located in the Existing Community Zone are permitted in previously disturbed areas as follows:
 - [1] Agricultural & Horticultural Land Uses. For purposes of Highlands Open Water buffer disturbances in the Existing Community Zone, existing agricultural and horticultural uses, whether or not under active management or operation, shall not be considered “previously disturbed” buffer areas with regard to uses for non-agricultural development.
 - [2] Any disturbance in a previously disturbed buffer must be accompanied by the finding that there will be no net loss of functional value of the buffer. This may include the use of mitigation and restoration of the Highlands Open Water Buffer. If existing land uses create a natural or developed barrier to the buffer, then the buffer may be considered to be developable.
- (e) Disturbances of Highlands Open Waters buffers located in the Protection and Conservation Zone are permitted in previously disturbed areas but in no case shall the remaining buffer be reduced to less than 150 feet from the edge of Highlands Open Waters.
 - [1] Agricultural & Horticultural Land Uses. For purposes of Highlands Open Water buffer disturbances in the Protection and Conservation Zone, existing agricultural and horticultural uses, whether or not under active management or operation, shall not be considered “previously disturbed” buffer areas with regard to uses for non-agricultural development.
 - [2] Any proposed disturbances must demonstrate full utilization of the following performance standards in the listed order, to demonstrate the necessity of an encroachment into Highlands Open Waters buffers:

- a. avoid the disturbance of Highlands Open Waters buffers;
- b. minimize impacts to Highlands Open Waters buffers; and
- c. mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer.

B. Riparian Area Standards:

Disturbance of any portion of a Highlands Riparian Area, as shown in as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/>, in the Protection Zone is prohibited except for linear development, which shall be permitted only where it has been shown that there is no feasible alternative for the linear development outside of the Riparian Area.

- (1) To address the “no feasible alternative for linear development” standard, the applicant shall demonstrate that there is no other location, design or configuration for the proposed linear development that would reduce or eliminate the disturbance of Riparian Area
- (2) 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.
 - (c) 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.

§ 165-284. Critical Habitat

- A. The location, extent and type of Critical Wildlife Habitat, Certified Vernal Pools and Natural Heritage Priority Sites are those areas defined in Article III, Definitions, and identified by the NJDEP. Details on the areas may be found on the Highlands Council’s interactive map or through the NJDEP.

B. Critical Wildlife Habitat

- (1) No disturbance is permitted in any Critical Wildlife Habitat as defined in Article, III, Definitions, except in accordance with the following:
 - (a) A Critical Wildlife Habitat area may be disturbed where a Habitat Suitability Analysis conducted by a qualified professional has been submitted to the Land Use Board, which shall review and confirm findings that:
 - (b) The nature of the site is such that it does not provide habitat for species of concern;
 - (c) The species of concern are not present on the site during any critical part of their life cycle, do not depend upon the site for food, shelter or breeding, and the habitat or the site is either unsuitable or not critical to species' recovery in the Region; or
 - (d) Existing land uses present a human, natural or development barrier to the use of the site by species of concern.
 - (e) Avoidance of disturbance to species of concern can be achieved through adherence to commonly accepted, species-specific timing restrictions including but not limited limitations on the timing of tree clearing, site disturbance and project development.

Where disturbance of any Critical Wildlife Habitat has not been confirmed to be in accordance with the above standards, no disturbance shall be authorized without prior written approval of the Highlands Council.

B. Certified Vernal Pools

- (1) Certified vernal pools as regulated in this section are depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/>.
- (2) No disturbance is permitted in any 300-meter buffer of a certified vernal pool.
- (3) A Critical Wildlife Habitat area may be disturbed where a Habitat Suitability Analysis conducted by a qualified professional has been submitted to the Land Use Board, which shall review and confirm findings that:
 - (a) The nature of the buffer is such that it does not provide habitat for species of concern;

- (b) The species of concern are not present within the buffer during any critical part of their life cycle, do not depend upon the site for food, shelter or breeding, and the habitat or the site is either unsuitable or not critical to species' recovery in the Region; or
 - (c) Existing land uses create a natural or developed barrier to the use of the buffer by species of concern.
 - (d) Avoidance of disturbance to species of concern can be achieved through adherence to commonly accepted, species-specific timing restrictions including but not limited limitations on the timing of tree clearing, site disturbance and project development.
- C. No disturbance is permitted in any New Jersey Department of Environmental Protection Natural Heritage Priority Site.

§ 165-285. Lake Management Areas.

- A. Applications for development in the Township's lake management areas as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be defined and regulated by the Highlands RMP.

§ 165-286. Steep Slopes

- A. The provisions of this section shall apply to the Steep Slope Protection Area as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> and to any other portion of the Highlands Area determined to consist of 5,000 square feet or more of contiguous steep slope(s) (as defined in Article III, Definitions). 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. These provisions shall apply to all non-major Highlands development.
- B. Severely Constrained and Moderately Constrained Slopes as defined herein shall be calculated at the time of application submission and are hereby made a mandatory submission item for any application that falls under the applicability thresholds of the Township Highlands LUO.
- C. 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.

- D. To address the “no feasible alternative for linear development” standard, the applicant shall demonstrate that there is no other location, design or configuration for the proposed linear development that would reduce or eliminate the disturbance of Severely Constrained or Moderately Constrained Slopes. For proposed linear development that would provide access to an otherwise developable lot, the applicant shall in addition, show that:
- (1) The proposed linear development is the only point of access for roadways or utilities to an otherwise developable lot; and
 - (2) Shared driveways are used to the maximum extent possible to access multiple lots.
 - (3) 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.
- E. The reviewing municipal authority shall not approve any application pursuant to this subsection if, after review of the information submitted to support an approval, it finds that there is a reasonable alternative to the proposed linear development.

§ 165-287. Municipally Important Groundwater Recharge Areas

- A. Municipally Important Groundwater Recharge Area (MIGWRA) as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> by any regulated development is prohibited and shall be permitted only upon a finding by the reviewing board that the proposal complies with the provisions of this subsection. For the purposes of the Township’s Highlands LUO, the terms ‘Municipally Important Ground Water Recharge Area’ and ‘Prime Ground Water Recharge Area’ may be used interchangeably as regulated by the Highlands RMP.
- B. Development shall not occur in MIGWRA unless either, the entirety of the subject property is located within a Municipally Important 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, Vernal Pool Buffers, Moderately Constrained Steep Slopes, or Severely Constrained Steep Slopes, to the extent that these resources are also present upon the subject property.
- C. 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 MIGWRA located within the affected parcels, placed where feasible on those parts of the MIGWRA having the lowest relative recharge rates and the least potential for aquifer recharge based upon site analysis.

- D. Low Impact Development practices shall be used in the design of the development proposal to reduce total recharge disruption to the minimum feasible, within the 15% cap.
- E. Any development application involving disturbance of a MIGWRA shall be accompanied by a mitigation plan, providing for an equivalent of 125% of pre-construction recharge volumes for that portion of the MIGWRA 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.

§ 165-288. Agricultural Resource Areas.

- A. The Township's agricultural resource areas as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be defined and regulated by the Highlands RMP.

§ 165-289. Forest Resource Areas.

- A. The Township's forest resource areas as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be defined and regulated by the Highlands RMP.
- B. Clear-cutting prohibited. Clear-cutting is prohibited in any forested portion of the Highlands Area, whether the affected lands are delineated as Total Forest Area or Forest Resource Area, or consist of lands containing upland forest, as determined under the procedures provided in the Highlands RMP.
- C. Preservation Area standards.
 - (1) Prohibitions. Any forest disturbance that by definition constitutes deforestation is prohibited within any portion of the Forest Resource Area, with the exception of that authorized under an HPAA issued by the NJDEP.
 - (2) Allowances. Forest disturbance in the Forest Resource Area that does not, by definition, constitute deforestation, shall be permitted in the Preservation Area only where authorized under an HPAA-issued by the NJDEP, or where demonstrated to be the minimum required in connection with:

- (a) The maintenance of any legally preexisting use or structure, expressly excluding the expansion of such use or structure; or
 - (b) Either a permitted non-major Highlands development or the expansion of any legally preexisting use or structure, where accompanied by submission, approval and implementation of a Forest Mitigation Plan designed to minimize the extent of forest 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.
- D. Planning Area standards. Disturbance (as defined by the Highlands RMP of any forested portion of the Planning Area shall be permitted only upon a finding by the approving authority or other applicable municipal authority that the following requirements have been satisfactorily addressed:
 - (1) 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 these Regulations;
 - (2) Demonstration that the proposed disturbance will not diminish the forest integrity class as indicated in the Highlands Region Interactive ERI at <https://www.highlandseri.com/> of any forested areas adjacent or proximate to the location of the proposed activity;
 - (3) Incorporation of low-impact development techniques in accordance with the Highlands RMP appropriate to the activity or development project proposed;
 - (4) For any proposed disturbance of 1/2 acre or more, other than that associated with the maintenance of a legally preexisting 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
 - (5) 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.
- E. Forest Mitigation Plans. All Forest Mitigation Plans must be prepared by a State of New Jersey approved forester or other qualified professional in accordance with the Highlands RMP

§ 165-290. Carbonate Rock Area.

- A. The Township's carbonate rock areas as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be defined and regulated by the Highlands RMP.
- B. 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.
- C. 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.
- D. 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 Township 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 Township Engineer shall have final force and authority and shall be incorporated into any approval issued by the reviewing authority.

§ 165-291. Scenic Resources.

- A. The Township's Highlands Scenic Resources as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be defined and regulated by the Highlands RMP.
- B. Referral to Highland Council required. Any development application involving a lot or lots containing a Highlands Scenic Resource, or which lies adjacent to any property containing or partially containing such Resources, 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.

§ 165-292. Wellhead Protection Areas.

- A. The Township's wellhead protection areas as depicted on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be defined and regulated by the Highlands RMP.

§ 165-293. Septic Density.

- A. Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system.

(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 Area Rules (N.J.A.C. 7:38).

- (a) Septic System Density Allowances. Septic system density (gross acres per septic system) shall not exceed the following allowances:

[1] Disturbed Land: 25 acres/septic system

[2] Forest Area: 88 acres/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 or other bulk requirements contained in the Clinton Township Land Use Regulations. Every development shall provide for a minimum acreage for each dwelling unit (or equivalent) as noted below.

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

[1] Existing Community Zone: 9 acres/septic system

[2] Conservation Zone: 10 acres/septic system

[3] Protection Zone: 25 acres/septic system

These allowances indicate the minimum acreage required per septic system, where that system is designed for a one-family household

generating a maximum flow of 300 gallons of wastewater per day. The resulting acreage shall be applied as the minimum average acreage necessary to support every 300 gallons of daily wastewater flow generated by any proposed use where the unit/square footage figures below shall be applied as 300 gallon-per-day equivalents.

(b) 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 §165-293A(2)(b)[3] and [4], 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.]

§ 165-294. New or Extended Water and Wastewater Infrastructure

A. Preservation Area.

New, expanded or extended public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater treatment facilities are prohibited unless approved by the NJDEP in accordance with the issuance of either a Highlands Applicability Determination or a municipally issued exemption indicating that a project is exempt from the Highlands Act, or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

B. Planning Area – Protection Zone, Conservation Zone, and Environmentally-Constrained Sub-Zones.

New, expanded or extended public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater treatment facilities are prohibited unless approved through a waiver to address a documented threat to public health and safety.

- C. Planning Area – Existing Community Zone (excluding Environmentally-Constrained Sub-Zone) and Lake Community Sub-Zone.

Expansion or creation of public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater 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.

- D. Highlands Centers.

Expansion or creation of public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater treatment facilities are permitted:

- (1) To serve lands which are appropriate for designated TDR Receiving Zones, infill development, or redevelopment;
- (2) To address public health and safety; or to serve new areas for development.

§ 165-295. Net Water Availability

- A. 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:

- (1) No irrigation systems should be utilized. Where required, they must 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.
- (2) 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.
- (3) Provide for internal recycling or beneficial reuse of reclaimed water in new commercial development projects, to the maximum extent practicable;
- (4) 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.
- (5) 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).

- B. The following shall apply for any development application proposing a new or increased use of potable or non-potable water averaging 6,000 gallons per day or more, derived from: a) any groundwater source in a Highlands Area HUC14 subwatershed, whether through a public community or non-community water supply system well, a non-public well, or an individual private well; or b) any surface water source in a Highlands Area HUC14 subwatershed that is not associated with a safe yield determined by the NJDEP through a water allocation permit.
- (1) Where a Highlands Council-approved Water Use and Conservation Management Plan has been adopted, any development application involving the use of water derived from a subwatershed(s) with a deficit net water availability as shown in the Highlands Region Interactive ERI at <https://www.highlandseri.com/> shall be regulated fully in accordance with the requirements of such Plan.
 - (2) 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 water use will not exceed the remaining Net Water Availability for the source HUC14 subwatershed(s).

§ 165-296. Forest Resources

- A. The portion of the Township's Highlands Area identified as Forest Area is depicted in the Highlands Region Interactive ERI at <https://www.highlandseri.com/> as regulated herein.
- B. Any disturbance of more than $\frac{1}{4}$ acre within the Total Forest Area shall be permitted only upon a finding by the reviewing board that the following requirements have been satisfactorily addressed:
- (1) 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 these Regulations;
 - (2) Incorporation of Low Impact Development techniques appropriate to the activity or development project proposed;
 - (3) For any proposed disturbance of one half ($\frac{1}{2}$) acre or more, other than that associated with the maintenance of a legally pre-existing use or structure (expressly excluding the expansion of any such use or structure), submission, approval and implementation of a Forest Mitigation Plan designed to minimize the extent of such disturbance, protect forest areas adjacent or proximate to the disturbance area, and mitigate for loss of trees

or other forest vegetation removed during the course of such disturbance;
and

- (4) Notwithstanding the preceding provisions, in the case of any proposed disturbance that by definition constitutes deforestation requires the 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.

C. Forest Impact Report. Where disturbance of 1 acre or more of Forest Area as shown on the Highlands Region Interactive ERI at <https://www.highlandseri.com/> is proposed, a Forest Impact Report shall be prepared including the following:

- (1) A map of Forest Area located on or within 500 feet of the subject property, as provided in the Highlands Region Interactive ERI at <https://www.highlandseri.com/>.
- (2) A map indicating any Forest Area to be disturbed.
- (3) A determination by a State of New Jersey Approved Forester or other qualified professional of whether the disturbance area qualifies as a Forest under the NJDEP Highlands Area Rules, at N.J.A.C. 7:38-3.9(c). This shall be the Confirmed Forest area.
- (4) An analysis of the effects (direct and indirect) of the disturbance upon the Confirmed Forest Area.
- (5) All Forest Impact Reports must be prepared by a State of New Jersey Approved Forester or other qualified professional.

D. Forest Mitigation Plan. Where the Forest Impact Report confirms that disturbance of 1 acre or more of Confirmed Forest Area will occur, a Forest Mitigation Plan shall be prepared by a State of New Jersey approved Forester or other qualified professional and must include each of the components listed herein:

- (1) 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:
 - (a) Highlands Open Waters and Buffers
 - (b) Riparian Areas, including Floodplains and Flood prone Areas
 - (c) Critical Habitat
 - (d) Steep Slopes and Ridgelines

- (e) Core Forests and Contiguous Forest Patches
- (2) 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.
- (3) Mitigation Description.
 - (a) 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.
 - (b) A. planting Plan indicating the specific plantings proposed, including size, species, quantity, location, separation distances, planting details, deer and pest management protections, and maintenance plans.
 - (c) A minimum 5-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 5 years, and ensure a survival rate of 70% in year 1, 75% in year 2, 80% in year 3, and 85% in years 4 & 5, plus each year <10% invasive or noxious species.

Article VII. Affordable Housing

§ 165-297. Affordable housing requirements in Highlands Areas.

- A. Nothing in these Regulations 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 these Regulations be construed to waive or exempt projects that include such housing from adherence to the requirements of these Regulations. The provision of low- and moderate-income housing in Clinton Township shall be in accordance with Chapter 151, Housing, Affordable, of the Township Code.
- B. In accordance with the requirements of the Fair Housing Act, any development consisting of newly constructed residential units shall reserve for occupancy at least 20 percent (20%) of the residential units constructed for low-or moderate-income households.

- C. Development exempt from the Highlands Act is not exempt from the 20% affordable housing reservation requirement.

Article VIII. Waivers and Exceptions

§ 165-298. Waivers; exceptions.

- A. Except to the extent modified by the provisions of this section, the existing provisions of the underlying municipal land use ordinance with respect to appeals, waivers and exceptions shall remain in full force and effect. The Township Highlands LUO 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 Township Land Use ordinance.
- B. In addition to any variance relief required under the Municipal Land Use Law, relief from Article VI, Prohibited Uses, §165-292, Septic Density, and §165-293, New or Extended Water and Wastewater Infrastructure, of the Township Highlands LUO shall require issuance of a Highlands Act waiver. Highlands Act waivers may be issued only by the NJDEP or the Highlands Council in accordance with the respective rules and criteria established by each agency in accordance with the provisions of the NJDEP Highlands Area Rules, the Highlands Act and the Highlands Regional Master Plan. 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.
- C. Where the Highlands Council and the NJDEP have approved a waiver for a development project in the Preservation Area, the standards of any such approved waiver will be utilized by the applicable Township board or agency in the review of the project, in lieu of the standards found herein.
- D. Highlands Council jurisdiction. Relief from any of the following specific provisions of Article IV, Establishment of Highlands Districts, may be granted by the reviewing Board or other municipal authority only where a waiver has been issued by the Highlands Council and Clinton Township. No such application shall be deemed complete or 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 Article VI.
 - (2) Water availability requirements.
 - (3) Septic system density.

- (a) Any application for Non-major Highlands development in the Preservation Area proposing a septic system density that is greater than that permitted (*i.e.*, fewer acres per septic system than required).
- (b) Any Planning Area application proposing a new or expanded septic system, in excess of the available (including any aggregated) septic system yield of the parcels associated with the application.

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

(1) Highlands Act waiver provisions. Highlands Act waivers may be issued only by the NJDEP or the Highlands Council in accordance with the respective rules and criteria established by each agency in accordance with the provisions of the Highlands Act and the Highlands Regional Master Plan. A Highlands Act waiver shall be required in the event of any application proposing the disturbance of a Highlands Resource, Resource Area or Special Protection Area in excess of, or not in compliance with, that authorized under the applicable Highlands regulations. 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); or c) installation or expansion of a use or structure listed as a PCS at Appendix A or Appendix B (where not otherwise prohibited by use restrictions of Article VI) in a manner inconsistent with all provisions and conditions of approval of the Highlands RMP. 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.

(2) Municipal exception provisions.

(a) For applications other than those cited at Subsection E(1), above, the reviewing Board or other authority may grant exceptions from the strict application of the provisions of Article, VII, Highland Areas Resource Regulations 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 justification, in writing, including at a minimum an explanation of how and to what extent the following conditions are addressed:

[1] The exception addresses Subsection E(2)(a)[1] or [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).

Article IX. Application review procedures and requirements.

- A. All procedural requirements regarding applications for zoning permits, construction permits, certificates of occupancy or approval, variance relief, site plan approval, subdivision approval, interpretations, appeals, and any other such application in the Highlands Area shall remain in effect as provided pursuant to the underlying municipal land use ordinances and other applicable codes and regulations in effect at the time of the application, except to the extent these may be modified by the provisions set forth herein.
- B. 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 these Regulations, a Highlands Resource Permit shall be required in accordance with the provisions of Subsection E, below.
- C. Municipal Exemption Determinations shall be issued by the Exemption Designee, as indicated 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 Clinton Township Planning Department 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 does not qualify as a Highlands Act Exemption. Nothing shall preclude the applicant in such an instance from resubmission 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 business days of issuance.
- (4) Exemption Designee. Municipal Exemption Determinations regarding Highlands Act Exemptions shall be issued by Clinton Township's official designee.
- (5) 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).
- (6) Submission requirements. All applications shall be accompanied by the information 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.

- D. Applications requiring Highlands Council approval. For any application listed in this subsection, authorization by the Highlands Council and Clinton Township 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 or as a condition of approval by the applicable municipal authority. It is at the discretion of the developer whether to seek Highlands Council and Township approval pertaining to this subsection prior to or after a development application with the appropriate Township authority. In all such cases, applications shall be filed with the Highlands Council in accordance with the established submission and procedural guidelines.
- (1) Critical Habitat. Any application proposing disturbance of an area designated as Critical Habitat (excluding any for which an HPAA has been issued by the NJDEP).
 - (2) 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.
 - (3) New/extended utility infrastructure. Any application proposing installation of new or extended water supply or wastewater collection/treatment utility infrastructure in any Planning Area Zone or Sub-Zone other than: a) the Existing Community Zone (excluding the Existing Community Environmentally Constrained Sub-Zone), or b) Lake Community Sub-Zone, pursuant to §165-117.8C(7).
 - (4) Net Water Availability. Any application proposing the use of Net Water Availability (excluding any for which an HPAA has been issued by the NJDEP), unless a Water Use and Conservation Management Plan has been approved by the Highlands Council.
 - (5) Conditional water availability. Any application proposing the use of Conditional Water Availability involving subwatershed in a Current Deficit Area (excluding any for which an HPAA has been issued by the NJDEP), unless a Water Use and Conservation Management Plan has been approved by the Highlands Council.
- E. 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 the Township Highlands Regulations 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 Clinton Township 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.

F. Application fee and 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.

- (1) Fees shall be assessed for as follows:
 - (a) For municipal exemption determination: \$150 per application.
 - (b) For Highlands resource or consistency reviews:\$300 per application.

G. Submission checklist requirements. All applicants seeking approval for any activity, improvement or development project covered under the provisions of the Township Highlands LUO shall submit the materials required in Appendix C – Highlands Checklist Requirements. In no case shall an application for development 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.

Article X. Enforcement; violations and penalties.

A. Enforcement.

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

B. Inspections.

(1) Site inspections. The Township Construction Official, Township Engineer and other qualified Township personnel, as determined to be necessary and appropriate are authorized to and shall periodically inspect all project sites for compliance with development approvals pursuant to the Township Highlands LUO. The authorized inspector shall in addition:

- (a) Verify of baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation.
- (b) 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.
- (c) Verify "as built" conditions to ensure compliance with all approvals, conservation easements, deed restrictions or other required means of resource preservation.

C. Administrative compliance. The Township Construction Official, Township Engineer and other authorized Township personnel 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.

D. Penalties. Civil and criminal penalties for violations of these Regulations shall be as established in accordance with Article XXXVIII of this chapter.

Article XI. Appendices

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 substances 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 substances 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.

Appendix C: Highlands Application Checklists

[To be inserted]