

# 2014 MASTER PLAN REEXAMINATION REPORT

Hardyston Township  
Sussex County, New Jersey



## HARDYSTON TOWNSHIP PLANNING BOARD

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**MAY 2014**

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

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Prepared by:

Carrine Piccolo-Kaufert, P.P. AICP

License No. 33LI00613500

## RESOLUTION OF THE HARDYSTON TOWNSHIP PLANNING BOARD

REEXAMINATION OF THE TOWNSHIP OF HARDYSTON MASTER PLAN PURSUANT TO N.J.S.A. 40:55D-89 SPECIFICALLY WITH RESPECT TO THE PROVISIONS OF THE NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING ACT (N.J.S.A. 13:20-1 ET SEQ.) AND MUNICIPAL CONFORMANCE WITH THE HIGHLANDS REGIONAL MASTER PLAN AND OTHER PROVISIONS AND RECOMMENDATIONS OF THE TOWNSHIP OF HARDYSTON AND RECOMMENDING THE HIGHLANDS CHECKLIST ORDINANCE, HIGHLANDS PRESERVATION AREA EXEMPTION ORDINANCE AND CERTAIN OTHER LAND USE ORDINANCE AMENDMENTS

DECIDED AND ADOPTED: MAY 22, 2014

**WHEREAS**, the Planning Board of Hardyston Township, Sussex County, State of New Jersey (“Planning Board”), was established pursuant to all requirements and provisions of the New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.); and

**WHEREAS**, the Planning Board adopted the current Hardyston Township Master Plan pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on October 30, 2003; and

**WHEREAS**, N.J.S.A. 40:55D-89 provides that each municipality within the State of New Jersey periodically re-examine its Master Plan policies and assumptions, zoning restrictions, and site plan and subdivision regulations, and prepare and adopt by resolution a report on the findings of such reexamination; and

**WHEREAS**, the Planning Board has conducted such periodic reexaminations of the Master Plan since the initial date of its adoption and adopted reports setting forth its findings of each such reexamination, in accordance with the provisions of N.J.S.A. 40:55D-89; and

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


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

**WHEREAS**, the Highlands Regional Master Plan (RMP) was adopted by the Highlands Council on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

**WHEREAS**, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the

NOW, THEREFORE BE IT RESOLVED, that

- (1) The Planning Board hereby makes and adopts the findings of fact and all recommendations as set forth in the "2014 Hardyston Township Master Plan Reexamination Report," dated May, 2014, prepared by Carrine Piccolo-Kaufer, P.P., AICP, a reexamination of the Hardyston Township Master Plan and development regulations conducted specifically to recommend the attached Highlands Checklist Ordinance, Highlands Preservation Area Exemption Ordinance and to recommend a Master Plan Amendment to address the task of achieving conformance with the provisions of the New Jersey Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq.) and the Highlands Regional Master Plan and other recommendations set forth therein.
- (2) The Planning Board recommends to the Mayor and Council the ordinance amendments to the Highlands Checklist Ordinance, Highlands Preservation Area Exemption Ordinance and Land Use Code as recommended in the attached Reexamination Report.

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**HARDYSTON TOWNSHIP**  
**2014 MASTER PLAN REEXAMINATION REPORT**

**Introduction**

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This report constitutes the Master Plan Reexamination Report for Hardyston Township as defined by the New Jersey Municipal Land Use Law (MLUL). The New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.) provides that each municipality within the State of New Jersey periodically reexamine its Master Plan policies and assumptions, its zoning restrictions and site plan and subdivision regulations, and prepare and adopt by resolution a report on the findings of such reexamination at least every ten years. The Reexamination Report must include the following components (N.J.S.A. 40:55D-89):

1. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
2. The extent to which such problems and objectives have been reduced or increased subsequent to such date.
3. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, County and municipal policies and objectives.
4. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
5. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law” into the land use plan element of the municipal master plan, and recommended changes, if any, to the local development regulations necessary to effectuate the redevelopment plans of the municipality.

The current Hardyston Township Master Plan was adopted by the Planning Board pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) in October 2003. The Board subsequently adopted amendments to the Master Plan, affecting the following Master Plan Elements, respectively:

Hardyston Township Housing Element & Fair Share Plan - December 6, 2005

Hardyston Township Housing Element & Fair Share Plan - December 2, 2008

In addition to the aforementioned Master Plan amendments to the Township's Housing Element and Fair Share Plan, the Township has undertaken a number of planning activities, including the following:

Master Plan Reexamination Report - October 2005

Stormwater Management Plan - April 19, 2005

Stormwater Management Ordinance -April 25, 2006

Village Center Form-Based Code Ordinance - July 2, 2007

Petition for Highlands Plan Conformance (including a draft Highlands Master Plan Element, Environmental Resource Inventory, and Highlands Land Use Ordinance - December, 2009

Since the time of adoption of the last amendment to the Master Plan, the assumptions, policies, and objectives upon which the Master Plan is based have changed by virtue of: a) the enactment of the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.) by the State Legislature on August 10, 2004; b) the adoption of the Highlands Regional Master Plan by the Highlands Water Protection and Planning Council ("Highlands Council") on July 17, 2008, which became effective on September 8, 2008; c) the requirement of the Highlands Act that municipal Master Plans and regulatory provisions be brought into alignment with the Highlands Regional Master Plan for lands located within the Highlands Preservation Area; and d) the affirmative decision of the Hardyston Township Governing Body to conform to the Highlands Regional Master Plan for municipal lands located in the Preservation Area, as set forth by a Resolution titled "A Resolution of the Township Council of the Township of Hardyston Expressing its Notice of Intent to Petition the Highlands Council for Plan Conformance" adopted on January 2, 2009.

Accordingly, the Planning Board has reexamined the Township Master Plan and development regulations to determine the specific changes necessary to achieve consistency with the Highlands Regional Master Plan and thereby, to incorporate the specific changes in State policies, goals, and objectives as set forth by the Highlands Act. It is the intent of this Report to identify the specific revisions needed to bring the Township Master Plan and development regulations into conformance with the Highlands Regional Master Plan. This report will also consider and provide recommendations for other land use and zoning issues that have arisen since the time of the last Master Plan adopted in 2003 and Master Plan Reexamination report adopted in 2005.

## **Hardyston Township Municipal Summary**

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Hardyston Township is 32 square miles in size and has localized developed areas with less developed environmentally constrained outlying areas, which include the Highlands Preservation Area that encompasses both Newark Watershed properties and the Hamburg Mountain Wildlife Refuge. The Township is bounded by several municipalities including Vernon Township, West Milford Township, Jefferson Township, Sparta Township, Borough of Ogdensburg, Lafayette Township, and Wantage Township. The Township itself surrounds the Borough of Hamburg and the Borough of Franklin. Hardyston Township is a diverse community that consists of large rural lots, sprawling family farms, multiple lake communities, more densely developed townhouse and condominium developments, a resort-oriented hotel and golf community, as well an industrial park and numerous retail and commercial establishments. The Township experienced significant development at the height of the real estate boom in the late 1990's and early 2000's; with an estimated forty-one percent increase in the number of housing units from 2000 - 2010, and a total population increase of thirty-three percent over the same period. Throughout the period of intense development, and then through the subsequent economic downturn, the Township has continued to be both proactive and innovative relative to its goals and objectives for the future of the Township, including developing a state of the art of municipal complex and recreation center, adopting a form-based code that helps achieve the recreational-tourism vision for the Township's future, and utilizing cluster/lot-size averaging zoning techniques to help preserve the environmental and scenic resources of the Township while allowing for reasonable development.

## **1. Major Land Development Problems & Objectives**

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The following details the major problems, and goals and objectives relating to land development in the Township at the time of the adoption of the 2003 Master Plan and 2005 reexamination report. Many of these continue to be valid, while others have changed, specifically as a result of the passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan.

### ***General Goals***

The general goals of the Township represent the long-term vision for the Township and form the basis for the plans, land regulations, and actions that guide the development of Hardyston. The goals set forth in the 2003 Master Plan are as follows:

- To provide municipal services that serve the needs of the residents
- To maintain harmonious land uses and circulation patterns
- To retain water quality and environmental resources
- To minimize the impact of development on wildlife
- To retain the natural features and amenities that gives the Township its rural character
- To provide open space and recreational opportunities close to all residents
- To encourage economic development in the Route 94 corridor and in the regional center
- To encourage the preservation of the Township's historic and cultural resources
- To promote recreation and eco-tourism as a means of economic development

### ***Objectives***

The objectives of the Township's Master Plan make more specific recommendations than the broad goals identified above.

#### Land Use Objectives

- Minimize the impact of large-scale medium density residential development on the surrounding natural environment.
- Preserve and enhance the existing established rural residential and recreational character of Hardyston.
- Promote "Smart Growth" principles.

- Establish a design theme for the Township and its public buildings, consistent with the Township's rural character.

#### Conservation Objectives

- Protect areas constrained by steep slopes, poor drainage, flood prone lands and wetlands.
- Minimize site disturbance.
- Minimize the visual impact of development on important natural environments.
- Use all available tools to protect and preserve environmentally sensitive natural resources in the Township.
- Protect the groundwater.

#### Open Space & Recreation Objectives

- Preserve as much open space as possible, especially lakes, streams, tributaries, and significant habitats.
- Promote recreational opportunities for teenagers.
- Enhance the recreation opportunities of the Township through better use of current facilities.

#### Community Facilities Objectives

- Maintain and enhance the level of community facilities consistent with the character and development of the Township.
- Create a civic center with municipal services, recreational facilities near the center of the Township's population.
- Concentrate community facilities in those areas with higher densities.



## Utility Objectives

- Utilize utility plans as a growth management tool, extending infrastructure only in areas intended for growth.
- Preserve and maintain the existing utility infrastructure, including public water, sanitary sewer and storm water facilities.
- Preserve and protect the Township's public water supply, including storage areas, treatment facilities and the distribution system.

## Circulation Objectives

- Provide safe vehicular, pedestrian, and bicycle circulation by improving traffic signals at key intersections, utilizing traffic calming measures, and providing adequate on and off street parking and sidewalks in appropriate locations.
- Encourage and support mass transit options, even those which are likely only in the long run.
- Create efficient circulation patterns and calm traffic on local, county, and state roads.
- Enhance potential gateway locations to improve the appearance of the Township's transportation corridors. Capitalize on the "gateway to Sussex County" theme.
- Improve way-finding signage on major roads and at gateway locations to facilitate circulation and identify the route to key activity centers and destinations in the Township.
- Take necessary measures to mitigate the effects of increased regional traffic.

## Economic Objectives

- Promote economic development along established corridors and in the Stockholm area.
- Strengthen existing commercial districts and corridors by encouraging a mix of uses that provide employment, retail opportunities, services, and entertainment.
- Encourage the reuse of vacant non-residential buildings.
- Develop economic development strategies focusing on recreation and eco-tourism.

- Capitalize on the expanding purchasing power created by new residential development in the region.

#### Housing Objectives

- Provide adequate housing for all ages and demographics, especially senior citizens.

#### Historic Preservation Objectives

- Consider conducting a survey to identify additional properties for nomination to the State and National Registers of Historic Places.
- Encourage awareness and protection of Hardyston’s cultural, social, and historic heritage to provide a link to the past, to enhance the visual appearance of neighborhoods and to promote economic development.

#### Recycling Objectives

- Continue to be a leader in the use of recycled materials throughout the community, including at parks and in Township offices.

#### Comparison to Other Planning Efforts

- Consider land use policies in light of their impact on the region.
- Promote the designation of Hardyston as a “Regional Center.”

## **2. Extent of Reduction/Increase in Problems & Objectives**

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The extent to which each of the problems and objectives listed in item 1 above, have been reduced or have increased subsequent to the date of the last reexamination report, either as a result of passage of the Highlands Act, the adoption of the Regional Master Plan, and the decision of the Governing Body to conform its planning documents to the Regional Master Plan, or by other actions of the Township Planning Board, Township Council, advisory groups, developers, or the public at large are indicated below.

## *General Goals*

- The Township continues to provide a wide range of municipal services to residents, including a Township Police Department, volunteer fire department and first aid squad, snow plowing, recreation, and recycling. The Township is a leader in promoting shared service agreements that promote efficiencies and create cost savings, with nearly forty active agreements in place.
- The Township continuously reviews their development regulations and land use policies to ensure that development takes place in manner that has little impact on the surrounding communities and environment.
- The Township has over 4,000 acres of Newark Watershed property, which has been preserved and protected from development in order to protect water quality. As stewards of this important land, the Township has supported the need to protect the water quality of New Jersey. The passage of the New Jersey Highlands Act and the adoption of the Highlands Regional Master Plan combined with stricter controls from the New Jersey Department of Environmental Protection have added an additional layer of protection.
- The Township's land use planning and Minimum Impact Development District regulations allow development to take place in a manner that minimizes the impact on wildlife and retains the natural features and amenities that give the Township its rural character.
- The Township supports open space and recreational opportunities for all residents. The Township continues to actively use the Sports and Recreation Complex on Wheatsworth Road. In addition, Hardyston acquired additional property across from the existing park for future passive/active recreation opportunities. The Township also partners with Hamburg Borough and Franklin Borough for additional recreation opportunities as part of a shared service agreement at the Littell Community Center located in Franklin.
- The Route 94 corridor represents an area suitable for economic development and is centrally located to other municipal services, including] the Municipal Complex, Hardyston Elementary School, and Walkkill Valley Regional High School. Adoptions of the Town Center Shopping Center District in 2004, the Commercial Recreation Village Center District in 2007, and the other Commercial Recreation and Residential Commercial districts along Route 94 support and encourage economic development.
- The Township continues to encourage and support the preservation of the Township's historic and cultural resources. The Township celebrated its 250<sup>th</sup> Anniversary in 2012 with a focus on promoting and identifying the important and significant landmarks and resources in Hardyston.

- Hardyston continues to promote recreation and eco-tourism as means of economic development. In 2007 the Township adopted a form-based development ordinance known as the Village Center Ordinance to prepare for the future development of a compact, resort-orientated village center. The Commercial Recreation Village Center District includes development standards for an additional condominium hotel, nearly 300,000 square feet of commercial space (including main street retail space, highway commercial development, and office space, and 1,056 higher density resort-oriented housing. In 2008, Crystal Springs Development received planning board approval to proceed with the development of the Village Center concept; and construction of the commercial aspect is anticipated for the near future. In addition, the golf courses and Grand Cascades Lodge & Conference Center offer additional recreation opportunities and are a premier location for weddings, events, and conferences from throughout the tri-state area.

## *Objectives*

### Land Use Objectives

- Hardyston Township’s existing land use regulations coupled with the Township’s petition for Basic Plan Conformance with the Highlands Regional Master Plan supports the Township’s objective to protect and preserve the rural character of Hardyston.
- Hardyston has continued to use “Smart Growth” principles when developing land use regulations including; the 2007 Commercial Recreation Village Center (CR-VC) district which is form based code that promotes a compact, mixed-use, pedestrian friendly community.
- In 2006, the Township completed construction of a new Municipal and Police complex, which incorporates rustic architectural features consistent with the Township’s rural character.

### Conservation Objectives

- The Township continues to protect the Township’s natural resources and areas using environmental constraints through existing land use regulations and compliance with the New Jersey Department of Environmental Protection rules and regulations. Conformance with the Highlands Regional Master Plan will support this continued objective.

### Open Space & Recreation Objectives

- Hardyston Township currently has approximately 43% of its total acreage as preserved open space, either as part of the Newark Watershed or State and Federal lands.

- The Sports and Recreation Complex located on Wheatsworth Road is used by various sports leagues and the community as a whole throughout the year.
- In 2012, the Township established a community garden as part of the Township's Sustainable Jersey initiative. The garden provides raised beds for community gardens as well as a charity garden that provides fresh produce to local food banks. The mission of the Hardyston Community and Charity Garden is to promote healthy lifestyles, foster community spirit, provide educational opportunities for school-aged children, and help address the need for fresh, healthy food in our local food banks.
- Hardyston continues to look for other opportunities to expand or enhance recreation opportunities.

#### Community Facilities Objectives

- The location of the new municipal complex on Wheatsworth Road has created a civic space for the community due to its proximity to the Sports and Recreation Complex, Hardyston Elementary School, Wallkill Valley High School, and Sussex County YMCA.
- The Township continues to strive to maintain and enhance the Township's community facilities consistent with the needs of the community.

#### Utility Objectives

- The Township continues to work with Sussex County in the development of the County-wide Wastewater Management Plan. In 2013, the New Jersey Department of Environmental Protection approved the county-wide Sewer Service Area map, which determines future expansion/connections for public sewers. The wastewater management plan for the portion of the Township located in the Highlands's Preservation Area will be governed by the Highlands Regional Master Plan.
- Future higher density development will be located in areas that have approved public water and sewer areas.
- The Township adopted a Stormwater Management Plan in April 2005 and Stormwater Management Ordinance in April 2006 to help protect and improve the Township's storm water facilities.

### Circulation Objectives

- Providing safe circulation for all modes of transit and encouraging mass transit options continues to be an objective of Township.
- The Township has a successful agreement with Sussex County to provide bus transportation services for senior citizens and individuals with limited mobility.
- The Township has installed new signage at the municipal complex and at the main gateways to the Township which are visually attractive and promote Hardyston.

### Economic Objectives

- Hardyston continues to promote economic development along the Township's established corridors and within the Township's North Church Technical Center.
- The Hardyston Township Economic Development Commission routinely updates a "Welcome to Hardyston" press folder and the Hardyston Township website to encourage economic development within the Township.

### Housing Objectives

- The Township prepared and adopted a Housing Element and Fair Share Plan in December 2008. The Township received Substantive Certification in accordance with the Council on Affordable Housing 2008 Third Round Rules N.J.A.C 5:97 in 2009.
- Hardyston continues to strive to provide adequate housing for all ages and demographics.

### Historic Preservation Objectives

- Protection and awareness of the Township's cultural, social and historic heritage as means to enhance the Township and promote economic development is a continued objective supported by the Township's land use policies and regulations and conformance with Highlands Regional Master Plan.

### Recycling Objectives

- Hardyston Township continues to support effort recycling efforts both at the school and municipal facilities as well within the community as a whole.

#### Comparison to Other Planning Efforts

- Hardyston Township continues to recognize the importance of planning within a regional context. The recent development and expansion of the Mountain Creek development located in Vernon just north of the Hardyston/Vernon border support Hardyston and the surrounding area as a true regional tourism destination.

### **3. Significant Changes in Assumptions, Policies, Objectives**

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Since the Township adopted its 2003 Township Master Plan and 2005 Master Plan Reexamination Report, there have been several significant changes at the State, County, and local level affecting the assumptions, policies and objectives forming the basis of the Master Plan. These include the following:

#### ***Highlands Regional Master Plan Conformance Process***

Passage of the Highlands Act, adoption of the Regional Master Plan by the Highlands Council, and adoption by the Governing Body of its resolution to conform the municipal planning documents to the Regional Master Plan have significantly altered and increased the objectives that must be addressed in the Township Master Plan, including but not limited to incorporating a variety of Highlands Resource protections, providing an emphasis on infrastructure and environmental carrying capacities, and initiating a substantial modification to the methodology to be used in determining permitted densities of development within the municipality.

#### ***New Jersey Stormwater Regulations***

In 2004 the State of New Jersey adopted new Stormwater Management Rules as required by the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A) and the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A). The rules require municipalities to adopt a Stormwater Management Plan and a Stormwater Management Ordinance. Hardyston adopted its Stormwater Management Plan in April 2005 and adopted an implementing Stormwater Management Ordinance in April 2006. The existing Stormwater Management Plan and Ordinance continue to be valid; however, revisions may be necessary for the portions of the Township located in the Highlands Preservation Area as the Township works with the Highlands Council to achieve Full Plan Conformance.

### ***Council on Affordable Housing***

The New Jersey Council on Affordable Housing (COAH) adopted Third Round regulations for municipal affordable housing obligations in December 2004, which were to govern affordable housing for the period from 1999-2014. However, the rules were challenged and ultimately invalidated in 2007. In 2008, the Council on Affordable Housing adopted revised third round rules to govern the period from 1999-2018. The Township of Hardyston prepared and adopted an amended Housing Element and Fair Share Plan on December 2, 2008 and petitioned COAH for Substantive Certification. Hardyston Township received Substantive Certification from COAH under the 2008 third round rules in May 2009 and is presently afforded the protections that substantive certification provides until 2018. However, since the time the Township received substantive certification, the 2008 third round rules have been invalidated by the courts and COAH has been ordered to prepare revised third round rules. The draft rules were approved by the Council on Affordable Housing on April 30, 2014 and are expected to be introduced for comment in the June New Jersey Register. The impact the revised rules will have on Hardyston's affordable housing obligation, if any, remains to be determined, and Hardyston Township should continue to implement its existing Fair Share Plan as certified by COAH.

### ***Sussex County Strategic Growth Plan***

In 2007, Sussex County received Plan Endorsement from the State Planning Commission for their Strategic Growth Plan. The Strategic Growth Plan establishes a vision, goals, and objectives for the future of the County as a whole. The Plan defines Hardyston Township as mostly a Rural/Agricultural landscape; however, it also identifies areas along the Route 94 corridor as a job creation center consistent with the development of the Commercial Recreation Village Center District.

Sussex County is currently undertaking a planning and visioning process to amend their Strategic Growth Plan to account for the changes in the economy and demographic trends since the economic downturn. Hardyston Township will continue to actively participate in the visioning process necessary to amend the plan.

### ***NJDEP Water Quality Management Rules/Sussex County Wastewater Management Plan***

In 2008, the New Jersey Department of Environmental Protection adopted revised Water Quality Management Rules (WQMP) (N.J.A.C 7:15), which established new guidelines for the preparation of Wastewater Management Plans (WMP). Under the new rules, counties are the WMP agencies responsible for developing updated Wastewater Management Plans that encompass all the municipalities within the County. The WMP process establishes sewer service areas, determines the allowable density and level of development based on septic system densities and the revised nitrate dilution model for areas served by septic systems, and addresses nonpoint source pollution through riparian corridor protection, steep slope protection, stormwater management, and septic system



maintenance. Furthermore, the revised WQMP rules rely on new environmental criteria, including Natural Heritage Priority Site, wetlands, category one buffers, and threatened and endangered species habitats, in determining sewer service areas. According to the 2008 rules, County WMP agencies were required to prepare and submit new plans by April 2009; however, due to the Permit Extension Act and other extensions, the County is still in the process of developing a complete Wastewater Management Plan and anticipates a draft plan to be finalized by the end of 2014. The NJDEP approved the WMP Sewer Service Area Map on June 3, 2013. The new map guides site specific amendments and future applications for development. The WMP process has been time consuming and unpredictable. Ultimately, the approval of sewer service areas is essential to the future development of Hardyston relative to higher density housing, including the Village Center, and the Township addressing their affordable housing obligation. Furthermore, while the County WMP still does not have an approved plan in accordance with the 2008 rules, the NJDEP is currently in the process of preparing revised WQMP rules, which may further impact wastewater management planning in Hardyston.

### ***Sustainable Jersey Initiative***

In 2009, a municipal certification program for municipalities wishing to go green, save money, and take steps to sustain their quality of life over the long term was established. The Sustainable Jersey Initiative is overseen by a non-profit, non-partisan organization that provides tools, training and financial incentives to support and reward communities as they pursue sustainability programs. Municipalities can achieve Sustainable Jersey Certification by establishing a Green Team Committee and completing a variety of action items. Action items range from planning documents, energy audits and studies, adoption of various land use ordinances and policies, and actual initiatives such as “green fairs,” community gardens, and recycling days. In 2010, Hardyston Township passed a resolution expressing their intent to participate in the Sustainable Jersey Certification program and appointed a Green Team. In 2011, the Township was awarded a \$10,000 grant to create a community and charity garden. The Township continues to pursue Sustainable Jersey Certification and may consider the adoption of the various planning documents and ordinances that are qualified action items under the program.

## **4. Specific Recommended Changes to the Master Plan**

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The Planning Board recommends that specific changes to the Hardyston Township Master Plan be adopted, including modifications to the underlying objectives, policies and standards, all as outlined in detail in the “Highlands Preservation Area Master Plan Element” approved by the Highlands Council as part of the Township’s Petition for Plan Conformance.

## 5. Specific Recommended Changes to Development Regulations

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- a. The Planning Board recommends that the specific changes, as detailed in the document titled “Hardyston Township Highlands Preservation Area Checklist Ordinance,” approved by the Highlands Council as part of the Township’s Petition for Plan Conformance (copy attached herewith) be adopted by the Governing Body to implement the objectives, policies and standards as outlined in the Highlands Preservation Element of the Master Plan.
- b. The Planning Board recommends that the specific changes, as detailed in the document titled “Hardyston Township Highlands Preservation Area Exemption Ordinance,” (copy attached herewith) be adopted by the Governing Body to implement the procedural and substantive requirements by which the Township may issue Highlands Act Exemption Determinations.
- c. The Planning Board recommends that the specific changes, as detailed in the proposed amendment to the Commercial Recreation Village Center District (CR-VC) (copy attached herewith), be adopted by the Governing Body to allow for the creation of a long-term care residence option in a portion of the transitional housing sub-district of the CR-VC Form Based Code. The provisions to allow a long-term residence option will amend the CR-VC district to allow for assisted living facilities and related services, including nursing services in a portion of the transitional housing sub-district.

The long-term care residence option is consistent with the goals and objectives of the Hardyston Township Master Plan. Specifically, the Township has stated providing a mix of housing types for all income levels and demographics, especially seniors, as a desired objective. Furthermore, a long term residence option has the ability to generate additional affordable housing units, which can address any future affordable housing option. In addition, permitting the long-term care option in the transitional housing subzone is compatible with the surrounding uses and will create a transitional area between the proposed residential units and the existing commercial uses.

Finally, due to the fact that Hardyston Township is not seeking Plan Conformance for the portions of the Township located in the Planning Area of the Highlands, the recommended changes are not in opposition to the Township’s Petition for Plan Conformance and the Highlands Regional Master Plan.

- d. The following properties have been identified as split zone lots, meaning that the lots fall within more than one zoning district according to the current zoning map which was last updated in July 2007. It is the intention of this Reexamination Report to recommend that any property identified as being split zoned be reviewed and potentially rezoned to fall entirely within one zone district or have a clear setback line established for lots that should remain with split zones. The majority of the split zones are located along County Route 631 (North Church Road) and State Route 94. The remaining lots are either railroad lots or open

space lots in the Newark Watershed and Hamburg Mountain Wildlife Refuge or lots on the perimeter of existing lake communities.

The split zone lots are as follows:

BLOCK	LOT	QUAL	PROPERTY LOCATION	CURRENT SPLIT ZONE
15	1.02	QFARM	1-40 ORTS RD	MIDD-5/R-C
21	2		1 DEER TR	MIDD-10/R-3
62	34.05		3316 RT 94	R-C/MIDD-5
62	19		174 NORTH CHURCH RD	R-C/MIDD-5
62	35	CELL5	3312 RT 94	R-C/MIDD-5
62	10		216 NORTH CHURCH RD	I-2/R-C
62	34.02		3314 RT 94	R-C/MIDD-5
62	34.08		245 WHEATSWORTH RD	R-C/MIDD-5
62	34.03		3320 RT 94	R-C/MIDD-5
63	24.13		204 WHEATSWORTH RD	R-C/MIDD-5
63	24.12		206 WHEATSWORTH RD	R-C/MIDD-5
63	24.06		218 WHEATSWORTH RD	R-C/MIDD-5
63	24.02		3330 RT 94	R-C/MIDD-5
64	4.07		3517 RT 94	R-C/MIDD-5
64	4.02		10-42 GRUMM RD	RC/OSGU/MIDD-5
64	6		3661 RT 23	I-1/B-1
67	2.01		40 BUNN RD	R-4/MIDD-3
68	8.01		144 BEAVER RUN RD	MIDD-5/OSGU
68	14	X	16 GRUMM RD	R-C/MIDD-5
72	10.01		3295 RT 94	R-C/MIDD-3
72	5.02		3235 RT 94	R-C/MIDD-5
72	3.03		6 BIG SPRING RD	R-C/MIDD-5
72	5.03	QFARM	3241 RT 94	R-C/MIDD-5
72	5.01		3219 RT 94	R-C/MIDD-5
74	15	QFARM	3199 RT 94	R-C/MIDD-5
74	11		3211 RT 94	R-C/MIDD-5
74	14.06		3205 RT 94	R-C/MIDD-5
74	14.01		9 BIG SPRING RD	R-C/MIDD-5
75	17.02		181 NORTH CHURCH RD	B-1/MIDD-5
75	17.01		175 NORTH CHURCH RD	B-1/MIDD-5
75	25	QFARM	201 NORTH CHURCH RD	R-C/MIDD-5
75	17.05		183 NORTH CHURCH RD	B-1/MIDD-5
75	47		1 LASINSKI RD	I-1/B-2/MIDD-5
75	54		RAILROAD	I-1/MIDD-3
75	65		3170 RT 94	I-1/MIDD-3

75	56.03		22 LASINSKI RD	R-C/I-1
75	43.01		3260 RT 94	R-C/MIDD-5/B-1/I-1
75	39		249 NORTH CHURCH RD	R-C/MIDD-5/B-1
75	16.02		173 NORTH CHURCH RD	B-1/MIDD-5
75	16.01		171 NORTH CHURCH RD	B-1/MIDD-5
75	26	QFARM	205 NORTH CHURCH RD	R-C/MIDD-5
83	27.02		2871 RT 23	MIDD-10/R-3
84	3		2 LAKE SHORE RD E	R-C/R-3
84	1.01		2845 RT 23	R-C/R-3
60	24		RAILROAD	MIDD-10/OSGU

## **6. Changes Recommended for Incorporation of Redevelopment Plans**

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At this time the Planning Board makes no findings or recommendations regarding the incorporation of redevelopment plans pursuant to the Local Redevelopment and Housing Law, P.L. 11992, c.79 (C.40A:12A-1 et al.).

**TOWNSHIP OF HARDYSTON  
SUSSEX COUNTY, NEW JERSEY**

**Pending Ordinance No. \_\_\_\_\_**

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE  
TOWNSHIP OF HARDYSTON TO UPDATE SUBMISSION REQUIREMENTS FOR  
APPLICATIONS FOR DEVELOPMENT

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

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

WHEREAS, the Highlands Regional Master Plan was adopted by the Highlands Council through the adoption of Resolution 2008-27 on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, Resolution 2008-27 included the adoption of Highlands Regional Master Plan as well as the adoption of various technical reports and guidelines that accompanied the Plan including the 2008 Plan Conformance Guidelines; and

WHEREAS, the Plan Conformance Guidelines provide an overview of the Highlands Act’s bifurcated system for municipal conformance with the Highlands Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Plan Conformance Guidelines detail the requirements for Plan Conformance including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources; and

WHEREAS, the Plan Conformance Guidelines require conforming municipalities to adopt Initial Revisions as a first step of Plan Conformance; the initial revisions are revisions of the existing master plan and development regulations which are deemed necessary by the Highlands Council for prompt enactment by a petitioning local government in order to ensure the protection and enhancement of the resources of the Highlands Region; and

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

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

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

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

WHEREAS, the Governing Body finds that the proposed changes to the municipal planning program are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community; and

WHEREAS, the Governing Body recognizes that the formal municipal adoption of each component of the revised planning program must take place, in sequential order in accordance with all statutory requirements, involving public hearings and deliberation by the, Planning Board, and Governing Body; a process that will require an additional undetermined period of time; and

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

WHEREAS, the adoption of revised submission requirements pertinent to Applications for Development therein is essential to ensuring that Applicants achieve

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

WHEREAS, the Governing Body finds that the adoption of such submission requirements are important not only to provide such immediate resource protections, but to ensure the proper management of Applications for Development involving lands within the Highlands Area of the municipality; and

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

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Hardyston that the Land Use Ordinance of the Township of Hardyston is hereby amended as follows:

**SECTION 1.** Article XXI, Administration and Enforcement of Chapter 185, Zoning is hereby amended to incorporate a new Section 185-93.1 entitled Highlands Preservation Area Application for Development Checklist as follows:

**§185-93.1. Highlands Preservation Area Application for Development Checklist.**

**A. APPLICABILITY**

This Ordinance shall apply to any Application for Development involving lands located within (or partially within) the Township Highlands Preservation Area (as illustrated in Exhibit 1, “Township of Hardyston Highlands Preservation Area”) that seeks approval of a site plan, subdivision, or change in use, where approval of such Application would:

- (1) result in the ultimate disturbance of one (1) acre or more of land;
- (2) produce a cumulative impervious surface area of one-quarter ( $\frac{1}{4}$ ) acre, or more;
- (3) in the case of residential development, create three or more dwelling units; or
- (4) introduce or expand on any of the following land uses/facilities:
  - (a) Landfills;
  - (b) Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
  - (c) Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;

- (d) Industrial treatment facility lagoons; or
- (e) Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of this Ordinance, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined at Section 4 below.

For purposes of this Ordinance, the phrases “Application for Development,” “Highlands Area,” “residential development,” “ultimate disturbance,” and “cumulative impervious surface area” shall be defined as provided at Section 4 below.

## **B. ADMINISTRATIVE COMPLETENESS**

- (1) **CONSISTENCY DETERMINATIONS REQUIRED.** No Application for Development included in Section A. above, shall be deemed complete or considered for review by the applicable Land Use Board until and unless the Applicant has obtained and provided a copy of:
  - (a) A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan; or
  - (b) A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a certification, as detailed in Section B(2) below, by the Applicant’s professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan.
- (2) **FINDINGS OF INCONSISTENCY.** Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan, no such application shall be deemed complete or considered for review by the applicable Township land use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant’s plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the application has been revised to achieve consistency with the Highlands Regional Master Plan and specifically describing the revisions made to achieve such consistency.
- (3) **CHECKLIST WAIVER.** The Township may issue a waiver from the provisions of this Section where it can be established by the Applicant and can be verified by the designated representative(s) of the Township that:
  - (a) The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act (see Section C(2) below), but eligibility for an exemption has been sufficiently established by the Applicant; or
  - (b) The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or



Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

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

### **C. EXCLUSIONS AND EXEMPTIONS**

- (1) **EXCLUSIONS.** The following specific improvements and related applications shall be excluded from the provisions of this Ordinance:
  - (a) The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
  - (b) Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.
  - (c) Any Agricultural or Horticultural Use or Development that would not result in either:
    - [1] An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 4, below); or

[2] Construction of three (3) or more residential dwelling units (including accessory dwelling units) served by individual on-site septic system(s).

(2) EXEMPTIONS. Any activity, improvement or development project listed and demonstrated to constitute a Highlands Act exemption shall be exempt from the provisions of this Ordinance. Formal demonstration of a Highlands Act exemption for an Application for Development involving lands located (or partially located) in the Preservation Area shall consist of one of the following:

(a) *State Agency Determination.* State Agency Determinations shall consist of a Highlands Applicability Determination (HAD) issued by the NJDEP indicating that the proposal qualifies as a Highlands Act Exemption.

(b) *Municipal Determination.* Pursuant to Township Ordinance #\_\_\_\_\_, entitled “Township Highlands Area Exemption Ordinance,” effective as of [insert date], for any application under this Ordinance involving Highlands Act Exemptions #4, #6, #7, or #8, the applicant may request and shall be deemed to have satisfied the evidentiary requirement by obtaining a Municipal Exemption Determination issued by the Municipal Exemption Designee, provided such Determination indicates that the proposal qualifies as a Highlands Act Exemption. The applicant may rely upon the findings of a Municipal Exemption Determination to the same extent and with the same protections as would apply in the case of a HAD issued by the NJDEP.

## D. DEFINITIONS

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

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

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

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

**Applicant** – means a developer submitting an Application for Development.

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

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

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

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

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

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

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

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

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

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

**Impervious Surfaces, Cumulative** – means the total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot,

parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

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

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

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

**NJDEP** – New Jersey Department of Environmental Protection

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

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

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

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

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

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

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

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

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

## **SECTION 2:**

If any portion, paragraph, clause, sentence or phrase of this Ordinance is determined to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions of this Ordinance.

**SECTION 3:**

All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 4:**

This Ordinance shall take effect after final passage and publication in the manner prescribed by law.

## **APPENDIX A. MAJOR POTENTIAL CONTAMINANT SOURCES**

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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**

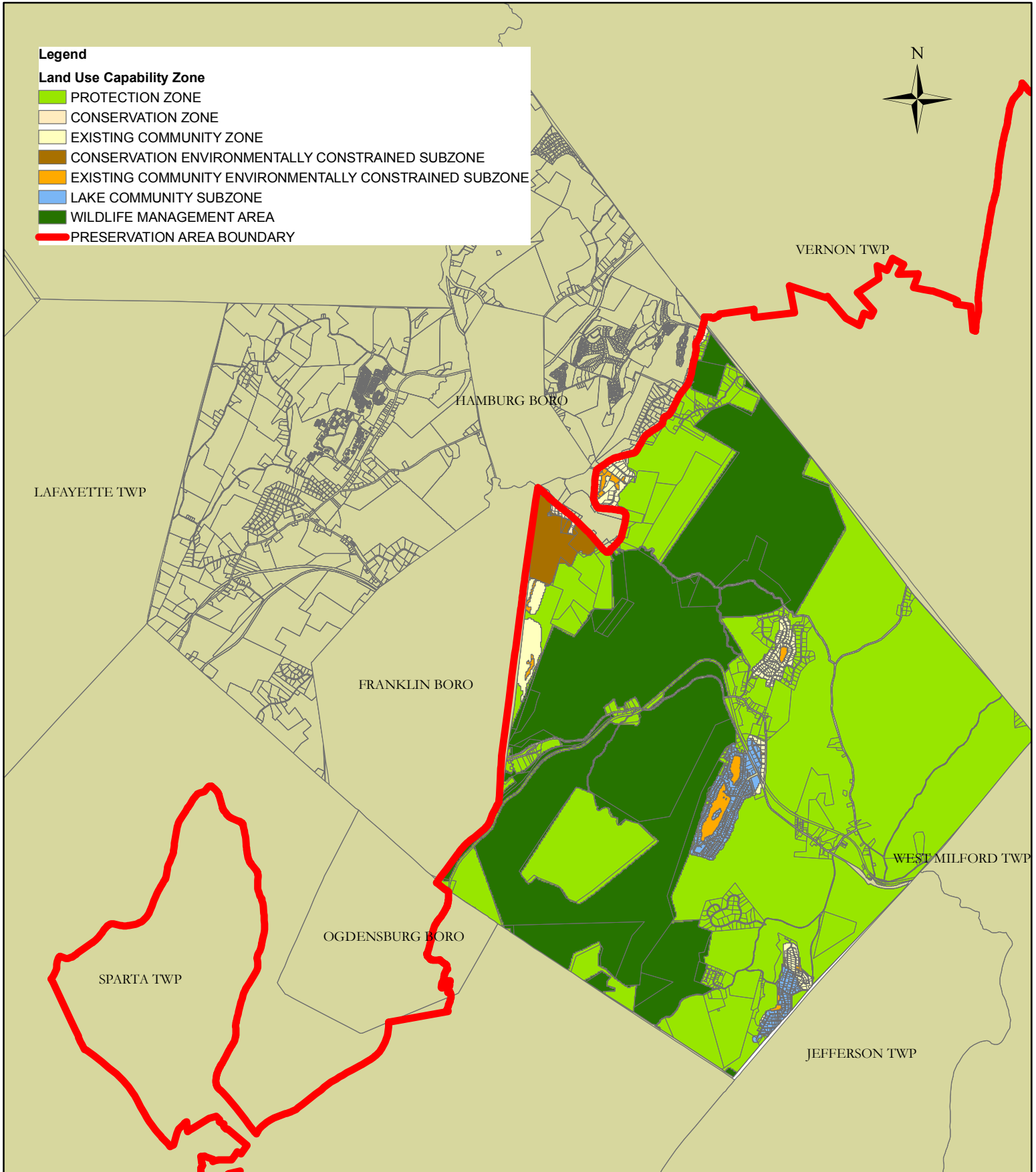
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Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Minor Potential Contaminant Sources include the following:

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

# Exhibit 1

## Hardyston Township Highlands Area



Data Source: New Jersey Highlands Council



**HIGHLANDS PRESERVATION AREA EXEMPTION ORDINANCE**

**A Supplement to the Land Use Ordinances of**

**TOWNSHIP OF HARDYSTON**

**SUSSEX COUNTY, NEW JERSEY**

**DRAFT for submission to the New Jersey Highlands Water Protection and Planning Council**

**DATE: \_\_\_\_\_, 2014**

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

**TOWNSHIP OF HARDYSTON**  
**SUSSEX COUNTY, NEW JERSEY**

**Ordinance #**

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWNSHIP OF  
HARDYSTON TO ESTABLISH A PROCESS FOR MUNICIPAL HIGHLANDS ACT EXEMPTION  
DETERMINATIONS

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

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

WHEREAS, the Highlands Regional Master Plan was adopted by the Highlands Council through the adoption of Resolution 2008-27 on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, Resolution 2008-27 included the adoption of Highlands Regional Master Plan as well as the adoption of various technical reports and guidelines that accompanied the Plan including the 2008 Plan Conformance Guidelines; and

WHEREAS, the Plan Conformance Guidelines provide an overview of the Highlands Act’s bifurcated system for municipal conformance with the Highlands Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Plan Conformance Guidelines detail the requirements for Plan Conformance including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance,

which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources; and

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

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

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

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

WHEREAS, the Governing Body finds that the proposed changes to the municipal planning program are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community; and

WHEREAS, the Governing Body recognizes that the formal municipal adoption of each component of the revised planning program must take place, in sequential order in accordance with all statutory requirements, involving public hearings and deliberation by the, Planning Board, and Governing Body; a process that will require an additional undetermined period of time; and

WHEREAS, in the Highlands Act, the Legislature identified numerous categories of activities that are exempt from the Act, the RMP, the Preservation Area Rules, and any amendments to a master plan, development regulations, or other regulations adopted by a local government to conform them with the RMP.

WHEREAS, in a July 19, 2012 Memorandum of Understanding (MOU) between the Highlands Council and the NJDEP, the Council and the NJDEP recognized the circumstances in which it would be appropriate for conforming, Highlands Council-certified municipalities to make determinations regarding specified Highlands Act exemptions.

WHEREAS, the Governing Body finds that the adoption of requirements for a municipal Highlands Exemption Determination program are important not only to provide resource protections, but to ensure the proper and efficient management of development activity involving lands within the Highlands Area of the municipality; and

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Hardyston that the Land Use Ordinance of the Township of Hardyston is hereby amended as follows:

**SECTION 1.** Article XXI, Administration and Enforcement of Chapter 185, Zoning is hereby amended to incorporate a new Section 185-93.2 entitled Municipal Highlands Act Exemption Determinations as follows:

## §185-93.1. Municipal Highlands Act Exemption Determinations.

### A. TITLE, PURPOSE, SCOPE

- (1) **Title.** This Ordinance shall be known and cited as the “Township of Hardyston Highlands Preservation Area Exemption Ordinance.”
- (2) **Purpose.** The purpose of this Ordinance is to set forth the procedural and substantive requirements by which the municipality will issue Highlands Act Exemption Determinations. Such determinations pertain only to Highlands Act Exemptions 1, 2, 4, 5, 6, 7, and 8. Highlands Act Exemption Determinations indicate whether proposed activities, improvements or development projects affecting lands located within the Township Highlands Preservation Area are exempt from the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.), and are therefore exempt from the Highlands Water Protection and Planning Council’s (“Highlands Council”) Regional Master Plan, the New Jersey Department of Environmental Protection’s (NJDEP) Highlands Water Protection and Planning Act Rules (“Preservation Area Rules,” N.J.A.C. 7:38-1 et seq.), and from any amendments to the Township’s master plan, development regulations, or other regulations adopted pursuant to the approval of the Township’s Petition for Plan Conformance by the Highlands Council.
- (3) **Scope/Applicability.** The provisions of this Ordinance pertain to activities, improvements and development projects involving lands located within the Township Highlands Preservation Area. The Highlands Area comprises that portion of the municipality for which the applicable provisions of the Township Master Plan, land use ordinances and other pertinent regulations have been deemed by the Highlands Council to be in conformance with the Highlands Regional Master Plan (RMP) (see section C(1)a). The provisions of this Ordinance shall not be construed to alleviate any person or entity from the provisions and requirements of any other applicable ordinances, rules, or regulations of the municipality, or from any other applicable law, regulation, or requirement of any county, state, or federal authority having jurisdiction. Nor shall the provisions of this Ordinance deprive any person or entity from seeking a Highlands exemption determination from the NJDEP or the Highlands Council.
- (4) **Statutory Authority.** This Ordinance is adopted under the authority of the Highlands Act and the New Jersey Municipal Land Use Law (“MLUL”, N.J.S.A. 40:55D-1 et seq.). In the Highlands Act, the Legislature identified numerous categories of activities that are exempt from the Act, the RMP, the Preservation Area Rules, and any amendments to a master plan, development regulations, or other regulations adopted by a local government to conform to the RMP. See N.J.S.A. 13:20-28. The Legislature granted the Highlands Council the authority to administer the plan conformance process and to approve, reject, or approve with conditions municipal plan conformance petitions. See N.J.S.A. 13:20-14, -15. The Legislature, through the MLUL, granted authority to New Jersey municipalities to govern land use and development within their borders and, through the Highlands Act, established requirements for Highlands municipalities to conform their land use and development regulations to the RMP. In a July 19, 2012 Memorandum of Understanding (MOU) between the Highlands Council and the NJDEP, the Council and the NJDEP recognized the circumstances in which it would be appropriate for conforming, Highlands Council-certified municipalities to make determinations regarding specified Highlands Act exemptions.

### B. DEFINITIONS

- (1) **Word Usage.** Terms used in the body of this Ordinance which are defined by the Highlands Act (N.J.S.A. 13:20-3) are intended to have the same definitions as provided in the Highlands Act. Unless expressly stated to the contrary or alternately defined herein, terms which are defined by the MLUL are intended to have the same meaning as set forth in the MLUL. For purposes of this Ordinance, the terms “shall” and “must” are indicative of a mandatory action or requirement while the word “may” is permissive.

(2) **Definitions.** For purposes of this Ordinance the following definitions shall apply:

**Agricultural or Horticultural Development** – Construction for the purposes of supporting common farmsite activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing. (N.J.S.A. 13:20-3.)

**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. (N.J.S.A. 13:20-3.)

**Agricultural Impervious Cover** – Agricultural or horticultural buildings, structures or facilities with or without flooring, residential buildings and paved areas, but not meaning temporary coverings. (N.J.S.A. 13:20-3.)

**Applicant** – Any entity applying to the Board of Health, Planning Board, Zoning Board of Adjustment, Zoning Officer, Construction Official or other applicable authority of the municipality for permission or approval to engage in an activity that is regulated by the provisions of this Ordinance.

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

**Building Permit** – Used interchangeably with the term “Construction Permit;” see definition below.

**Construction Permit** – A permit issued pursuant to the New Jersey Uniform Construction Code, Chapter 23 of Title 5 of the New Jersey Administrative Code (N.J.A.C. 5:23-1 et seq.), providing authorization to begin work subject to the conditions and requirements established under the provisions therein.

**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. (N.J.S.A. 13:20-3; N.J.S.A. 40:55D-4.)

**Disturbance** – The placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation. (N.J.S.A. 13:20-3.)

**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.

**Environmental Land Use or Water Permit** – A permit, approval, or other authorization issued by the Department of Environmental Protection pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.). (N.J.S.A. 13:20-3.)

**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. (N.J.S.A. 13:20-3.)

**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. (RMP, Glossary.)

**Farmsite** – A Farm Management Unit as defined above.

**Highlands Applicability Determination** – A determination made by the NJDEP (pursuant to N.J.A.C. 7:38-2.4) indicating 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 in conformance with, or are intended or proposed to be in conformance with, the Highlands RMP.

**Highlands Preservation Area Approval (HPAA)** – An approval issued by the NJDEP pursuant to 7:38-6 pertinent to a regulated activity in the Highlands Preservation Area, and including an HPAA that contains a waiver pursuant to N.J.S.A. 13:20-33b..

**Immediate Family Member** – 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. (N.J.S.A. 13:20-3.)

**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. (N.J.S.A. 13:20-3.)

**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.

**Major Highlands Development** – Except as otherwise provided pursuant to subsection a. of section 30 of the Highlands Act ("Exemptions"): (1) any non-residential development in the Preservation Area; (2) any residential development in the Preservation Area that requires an environmental land use or water permit [from the NJDEP, *see definition above*], or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity

undertaken or engaged in the Preservation Area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the Preservation Area that requires an environmental land use or water permit [from the NJDEP, *see definition above*], or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. Major Highlands Development shall not include any agricultural or horticultural development or agricultural or horticultural use. Solar panels shall not be included in any calculation of impervious surface. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq., as amended.)

**Master Plan** – For purposes of this Ordinance, all references to the “Township Master Plan,” “master plan,” or “Master Plan,” refer to the municipal master plan, as defined in the MLUL (N.J.S.A. 40:55D-5), as adopted by the Township Planning Board.

**Master Plan, Highlands Regional (RMP)** – For purposes of this Ordinance, all references to the Highlands Regional Master Plan (RMP), shall be by use of the words “Highlands Regional Master Plan,” “Highlands RMP,” “Regional Master Plan,” or “RMP.”

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

**NJDEP** – New Jersey Department of Environmental Protection

**NJDEP Preservation 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.

**Planning Area** – Lands within the Highlands Region that are not located in that portion designated by the Highlands Act as the “Preservation Area” (see metes and bounds description at N.J.S.A. 13:20-7b).

**Preservation Area** – Lands within the Highlands Region that are located in that portion designated by the Highlands Act as the “Preservation Area” (see metes and bounds description at N.J.S.A. 13:20-7b).

**Solar Panel** – An elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array. (N.J.S.A. 13:20-3.)

**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.

## **C. GEOGRAPHIC AREA OF APPLICABILITY**

- (1) Highlands Planning Area & Preservation Area. The Highlands Act establishes the Preservation Area and Planning Area of the Highlands Region. It describes the varied attributes of each and sets forth the major land use planning goals that pertain to the lands located within each. The Act defines the geographic extent of the Highlands Region to include the aggregated land area making up its constituent municipalities (N.J.S.A. 13:20-7a). It provides a physical delineation of the Preservation Area by use of a specific metes and bounds description (N.J.S.A. 13:20-7b), designating all remaining lands within the Highlands Region as the Planning Area.
  - (a) Highlands Area. The Township Master Plan incorporates the Highlands Preservation Area, inclusive of the goals applicable to it, as an integral component of the planning and land use policies of the municipality. For purposes of this Ordinance, this area is designated as the Township Highlands Preservation Area. A map of the Township Highlands Preservation Area appears in Exhibit 1.

- (b) *Applicability Specified.* This Ordinance applies specifically and solely to lands designated as the Township Highlands Preservation Area, as delineated in Exhibit 1.

#### **D. HIGHLANDS ACT EXEMPTIONS DETERMINATIONS**

- (1) ***Highlands Act Exemptions.*** Section 30 of the Highlands Act identifies as exempt, specific activities, improvements and development projects affecting lands within the Highlands Region. Such activities, improvements and projects may be proposed as a component of any type of land use application submitted to the municipality for approval, including but not limited to zoning permit applications, building permit applications, and Applications for Development (as defined at §B(2)). Any such qualifying activity, improvement or development project is exempt, with regard specifically to that activity, improvement or development project, from the requirements of the Highlands Act, the Highlands RMP, the NJDEP Preservation Area Rules, and any amendments to the Township's master plan, development regulations, or other regulations adopted pursuant to the approval of Township's Petition for Plan Conformance by the Highlands Council. Such an exemption specifically applies to any Highlands Area land use ordinance adopted by the Township pursuant to the Highlands Council's approval of Township's Petition for Plan Conformance. Where any application submitted to the municipality for approval proposes to rely upon a Highlands Act Exemption, the applicant must, as a condition of application completeness, and prior to review or approval of the application by the applicable municipal authority, provide sufficient evidence that the proposed activity, improvement, or development project in fact qualifies as a Highlands Act Exemption. Such evidence shall consist of either a State Agency Exemption Determination or a Municipal Exemption Determination (see §D (1) or §D (1) b below) indicating that the proposed activity, improvement, or development project qualifies for a Highlands Act Exemption.
  - (a) *State Agency Exemption Determination.* State Agency Exemption Determinations shall consist of either, a Highlands Applicability Determination issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal. State Agency Determinations may be requested with regard to any Highlands Act Exemption, however for applications involving any exemption not identified at § D (2) below, a State Agency Exemption Determination is required. Any applicant seeking a formal exemption determination for a capital or other project of any State entity or local government unit, or for any other publicly-owned or controlled land or facility, also must request a State Agency Exemption Determination.
  - (b) *Municipal Exemption Determination.* For an application involving any of the specific exemptions listed in Section D (2) below, the applicant may request a Municipal Exemption Determination. The applicant may rely upon the findings of a Municipal Exemption Determination to the same extent as would apply to an exemption determination issued by the Highlands Council or the NJDEP.
- (2) ***Highlands Act Exemptions Eligible for Municipal Determination.*** Effective as of the date on which the municipality receives written authorization from the Highlands Council to proceed, an applicant may seek a Municipal Exemption Determination for the Highlands Act Exemptions listed hereunder.
  - (a) *Exemption 1.* The construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of the Highlands Act (August 10, 2004) or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004.
  - (b) *Exemption 2.* The construction of a single family dwelling on a lot in existence on the date of enactment of the Highlands Act (August 10, 2004), provided that the construction does not



result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more.

- [1] A Municipal Exemption Determination indicating that an applicant qualifies under Highlands Act Exemption 2 shall require approval and filing of a Deed Notice along with a site plan delineating the total exempt area and the extent of the disturbance recognized in the Municipal Exemption Determination (see D(4) below). Municipal Exemption Determinations in such instances shall not take effect until the applicant has provided proof of filing of the approved Deed Notice.

(c) *Exemption 4.* The reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use.

- [1] For purposes of this Ordinance, this exemption shall not be construed to permit multiple 125% footprint expansions, but rather, to permit one or more reconstruction activities cumulatively resulting in a maximum 125% increase in the footprint of the impervious surfaces lawfully existing on the site, provided they do not cumulatively exceed the one-quarter acre limitation. Any determination of whether the expansion of impervious cover meets the statutory criteria for the exemption must account for the preexisting impervious cover, and such expansion must be contiguous to the location of the existing impervious cover. See In re August 16, 2007 Determination of NJDEP ex rel. Christ Church, 414 N.J. Super. 592 (App. Div. 2010), certif. denied, 205 N.J. 16 (2010).

- [2] For Preservation Area determinations, the applicable date of lawful existence shall be August 10, 2004, the date of enactment of the Highlands Act. For Planning Area determinations, the date of lawful existence shall coincide with the effective date of the municipally-adopted Highlands Area Checklist Ordinance or Highlands Area Land Use Ordinance, whichever is earlier.

(d) *Exemption 5.* Any improvement to a single family dwelling in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system.

(e) *Exemption 6.* Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.

(f) *Exemption 7.* An activity conducted in accordance with an approved woodland management plan pursuant to section 3 of the "Farmland Assessment Act," P.L.1964, c.48 (C.54:4-23.3) or a forest stewardship plan approved pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31), or the normal harvesting of forest products in accordance with a forest management plan or forest stewardship plan approved by the State Forester.

(g) *Exemption 8.* The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.

(3) ***Exemption Designee(s).*** Municipal Exemption Determinations regarding Highlands Act Exemptions shall be issued by the Township Planner and/or Zoning Officer. The Exemption Designee(s) shall be authorized to issue Municipal Exemption Determinations on behalf of the municipality, and shall only begin to do so, after satisfactory completion of a Highlands Council

training class for which the individual(s) has/have received formal certification from the Highlands Council.

- (a) *Updates to Training Certification.* In the event of programmatic changes, updated information, or modifications to procedures, updated training certification may be required of Exemption Designees in order to maintain qualifications for providing Municipal Exemption Determinations. The Highlands Council will provide training modules on an as-needed basis, to provide base training to new employees, and/or to further the expertise of already-certified individuals. Exemption Designees and the municipalities they serve will be advised of any need for upgraded training, which will be provided and funded by the Highlands Council.
- (b) *Interim Determinations.* For the duration of any period during which the municipality is without a qualified Exemption Designee(s) due to changes in personnel or other extenuating circumstances, applicants seeking Highlands Act Exemption Determinations shall be referred to the NJDEP or the Highlands Council, for a State Agency Determination pursuant to § D(1)a, above.

**(4) Application Procedures.**

- (a) *Municipal Exemption Applications.* Requests for Municipal Exemption Determination shall be submitted on forms provided by the Planning Department and shall be accompanied by sufficient information and documentary evidence to demonstrate whether the proposed activity, improvement or development project qualifies for the applicable exemption. Required submission materials applicable to each exemption, appear at § D (7), below.
- (b) *Completeness Determination.* The Exemption Designee shall review the application and all accompanying materials to determine whether sufficient information has been submitted to make a determination on the application. In the event of a finding that the application is incomplete, the Exemption Designee shall, within 10 business days of receipt, issue such findings in writing to the applicant, indicating what information is required to properly consider the application.
- (c) *Time for Determination.* The Exemption Designee shall issue Municipal Exemption Determinations within 10 business days of receipt of a complete application. The Exemption Designee may consult with the Executive Director (or applicable designee) of the Highlands Council as needed in making any exemption determination, however. In such circumstance, the Exemption Designee shall seek such assistance within the 10 day period and shall issue the determination within at least ten (10) calendar days of receiving the requested guidance. In no case shall failure to meet this date constitute approval of the exemption.
- (d) *Determinations.* All Municipal Exemption Determinations shall be provided in writing, shall certify to the applicability or inapplicability of the exemption, and shall include a statement of the rationale for the decision. Any Municipal Exemption Determination certifying to the applicability of Highlands Act Exemptions #2 shall be contingent upon submission of proof of filing of the required Deed Notice, as set forth at § D(4)e, below.
- (e) *Notice of Determination Required.* The Exemption Designee shall provide copies of all Municipal Exemption Determinations including a copy of the full application, to the Highlands Council and for decisions regarding lands in the Highlands Preservation Area, to the NJDEP, in either case, within ten (10) business days of issuance.
- (f) *Deed Notice for Exemption #2.* Any Municipal Exemption Determination that certifies to the applicability of Highlands Act Exemption #2 (§D(2) above), shall be issued conditionally,

pending fulfillment of the requirement that a deed notice be recorded in the office of the County Clerk or Register, as applicable, indicating the extent of the exemption that has been consumed. The deed notice shall incorporate each of the components listed below and the applicant shall provide a copy of the filed Deed Notice to the Highlands Council within five (5) business days of filing.

- [1] Clear identification of the name(s) and address(es) of the owner(s) in fee of the property;
- [2] Designated tax block and lot number(s), street address(es), municipality and county of location of the property;
- [3] Reference to the Municipal Exemption Determination (by date, numbering if applicable) issued and under which the deed notice is being filed;
- [4] Description of the approved area of ultimate disturbance and the impervious surface area, with verification that these remain below the statutory limits;
- [5] For properties of one acre or more in area, metes and bounds delineation indicating the portion of the property for which the ultimate disturbance has been authorized;
- [6] Agreement to abide by the ultimate disturbance and impervious surface limits imposed, any furtherance thereof rendering the Municipal Exemption Determination null and void; and
- [7] Notice that the owner(s) and subsequent owner(s) and lessees shall cause all leases, grants, and other written transfers of interest in the property to contain provisions expressly requiring all holders thereof to take the property subject to the limitations therein set forth.

- (5) ***Appeal of Municipal Exemption Determination.*** A Municipal Exemption Determination may be appealed by any affected person/entity by filing a notice of appeal within twenty (20) calendar days of issuance or receipt of said determination, whichever is later, specifying the grounds there for. Appeals must be filed with the NJDEP in the case of any Preservation Area Exemption, and with the Highlands Council, in the case of any Planning Area Exemption. All appeals shall be copied to the Exemption Designee, who shall immediately transmit to the NJDEP or the Highlands Council, as applicable, copies of the notice of appeal, the Municipal Exemption Determination Application, and all supplemental materials constituting the record that the Exemption Designee relied upon in issuing the Municipal Exemption Determination. Where the Municipal Exemption Determination deems an activity, improvement or development project exempt, the filing of an appeal to the NJDEP or the Highlands Council shall stay all proceedings in furtherance of its approval by the municipality.
- (6) ***Effect of Certified Exemption.*** Issuance of a Municipal Exemption Determination that certifies to the applicability of a Highlands Act exemption shall recognize the applicant's exemption from the provisions of the RMP, NJDEP Preservation Area Rules, and any municipal ordinances and requirements adopted under the authority of the Highlands Act to achieve Highlands Plan Conformance. The exemption is restricted solely to the extent of the specified activity, improvement, or development project as described in the language of the Highlands Act exemption, or to any lesser activity, improvement, or development project as proposed and certified through a Municipal Exemption Determination Application. Any activity, improvement, or development project, or any part thereof, that is not specifically listed as an exemption or exceeds the limits of an exemption, remains subject to all of the above regulatory programs to the full extent of the respective applicability of each. Issuance of a Highlands Exemption Determination shall not relieve the applicant from securing all other required federal, state, or local approvals.

(7) **Application Fees.** Municipal Exemption Determination: \$50

(8) **Submission Requirements.** All applications shall be accompanied by the Municipal Exemption Determination Application Form, the applicable fees, and the information listed below, as applicable to the particular exemption or exemption(s) being sought by the applicant. All references to professional preparers indicated herein shall be construed to include any and all qualified individuals licensed, certified, or otherwise eligible and authorized to complete such work, in accordance with the applicable laws and legal requirements of the State of New Jersey including but not limited to the MLUL (N.J.S.A. 40:55D-1 et seq.) and Title 13 of the New Jersey Administrative Code, Law and Public Safety. Where the Exemption Designee finds that any submission item is not necessary to address the evidentiary requirements that must be satisfied for issuance of an Exemption Determination, either because alternate items have been provided by the applicant, or the relevant information is readily available through records, maps, or any other documents on file in the offices of the municipality, the Exemption Designee may waive the applicant's obligation to submit such information.

(a) *Exemption 1.*

- [1] A copy of a deed, closing or settlement statement, title policy, tax record, mortgage statement or any other official document showing that the lot was legally owned by the applicant on or before August 10, 2004 and indicating the lot and block as designated by the municipal tax mapping, the municipality and county in which the lot is located, and the street address;
- [2] If the applicant did not own the lot, a copy of the binding contract of sale executed by the seller and the applicant on or before May 17, 2004 for the lot on which the house is to be constructed; and
- [3] A certification by the applicant stating that the single family dwelling proposed for construction on the lot specified and described therein by tax lot and block, municipality and county of location, and street address, is intended for the applicant's own use or the use of an immediate family member as identified therein by name and relationship to the applicant.

(b) *Exemption 2.*

- [1] A copy of the recorded deed or plat showing that the lot was created on or before August 10, 2004 or proof of subdivision approval on or before August 10, 2004;
- [2] A property survey certified by a licensed New Jersey Professional Land Surveyor indicating the property boundary lines and overall lot size, and showing what structures currently exist on the lot, if any;
- [3] A parcel plan certified by a licensed New Jersey Professional Engineer showing all existing and proposed development, including all structures, grading, clearing, impervious surface and disturbance, and including the calculations supporting the claim that impervious surfaces and areas of disturbance are within the limits necessary for Exemption 2; and
- [4] A metes and bounds description of the area of the lot to be disturbed, limited to less than one acre and a draft conservation restriction or deed notice (pursuant to § D(4)e above) to cover the balance of the lot.

(c) *Exemption 4.*

- [1] A parcel plan certified by a licensed New Jersey Professional Engineer depicting:
  - i. All existing property improvements, including all structures, grading,

clearing, impervious surfaces and limits of disturbance, lawfully existing on the site as of August 10, 2004 for Preservation Area projects and as of the effective date of the municipal Highlands Area Checklist Ordinance or Highlands Area Land Use Ordinance, whichever is earlier; and

- ii. All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading; and

- [2] A copy of any official documentation of the original date of construction of the building or otherwise establishing the lawfulness of existing impervious surfaces.

(d) *Exemption 5.*

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

(e) *Exemption 6.*

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

(f) *Exemption 7.*

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

- i. A brief description of the total area where the normal harvesting of forest products occurs;
- ii. A brief description of the length of time that the area to be managed has been in use for normal harvesting of forest products; and
- iii. A copy of a forest management plan or forest stewardship plan approved by the State Forester.

(g) *Exemption 8.*

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

**SECTION 2. SEVERABILITY.**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no way affect the validity of the ordinance as a whole, or of any other portion thereof.

**SECTION 3. EFFECTIVE DATE.**

This Ordinance shall take effect after final passage and publication in the manner required by law.

**AN ORDINANCE OF THE COUNCIL OF THE TOWNSHIP OF HARDYSTON AMENDING THE CR VILLAGE CENTER DISTRICT SECTIONS 185-119 THROUGH 185-124 INCLUDING ITS ATTACHMENTS, AND AMENDING THE “DEFINITIONS” SECTION 185-4 OF CHAPTER 185, AND AMENDING THE “REQUIRED OFF-STREET PARKING SPACES” SECTION 185-77 OF CHAPTER 185 ENTITLED “ZONING” OF THE CODE OF THE TOWNSHIP OF HARDYSTON TO AMEND THE COMMERCIAL RECREATION VILLAGE CENTER PLAN DEVELOPMENT PROVISIONS TO ALLOW ASSISTED LIVING FACILITIES AND RELATED SERVICES INCLUDING NURSING SERVICES IN A PORTION OF THE TRANSITIONAL HOUSING SUB-DISTRICT OF THE VILLAGE CENTER.**

**Purpose Statement:**

The purpose of this Ordinance shall be to amend the Commercial Recreation Village Center Plan Development provisions to allow the long-term care residence option in a portion of the transitional housing sub-district of the Village Center Form Based Code Zone.

**Section 1.** Chapter 185-4 "Definitions" is hereby amended to replace the existing definitions of "Nursing Home" and "Hospice Care Program" with the following definitions:

“Assisted Living Facility” means a facility which is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that a coordinated array of supportive personal and health services are available when needed for residents, for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

"Nursing Home" means a facility that is licensed by the New Jersey Department of Health to provide health care under medical supervision and continuous nursing care for 24 or more consecutive hours to two or more patients who do not require the degree of care and treatment which a hospital provides and who, because of their physical or mental condition, require continuous nursing care and services above the level of room and board.

"Hospice Care Program" means a program which is licensed by the State of New Jersey Department of Health to provide palliative services to terminally ill patients in the patient's home or place of residence, including medical, nursing, social work, volunteer and counseling services.

**Section 2.** Chapter 185- Attachment 9 to the CR Village Center District of Chapter 185 entitled “Zoning” are hereby amended to replace the existing attachment with the following attachment:

“Use Control Map CR Village Center” dated August, 2013

(see attached map)

**Section 3.** Chapter 185-Attachment 11 to the CR Village Center District of Chapter 185 entitled "Zoning " is hereby amended to add Assisted Living, Nursing Homes, and Hospice Care Programs, as they are defined herein as permitted uses in a subdistrict of the Transitional Housing District as shown on Chapter 185 - Attachment 9, Use Controls CR Village Center Map as the Long Term Care Option (see attached table)

**Section 4.** Chapter 185-77 "Required Off-street Parking Spaces" is hereby amended to replace the existing requirements with the following requirements:

Nursing Home	.5 spaces per bed or unit
Assisted Living Facility	as per RSIS
Hospice Care	.5 spaces per bed or unit
Continuing Care	.5 spaces per bed or unit

**Section 5.** Chapter 185-119 "Tract Standards" is hereby amended to add the following requirement in new subparagraph (c) to item (11) Minimum Affordable Housing:

(11) Minimum Affordable Housing.

"(c) If assisted living facilities are constructed pursuant to the Long Term Care Residence Option then credit worthy assisted living beds/units may be credited against the required 128 affordable rental units, of which no more than 1/3 of the 128 units shall be age-restricted.

**Section 6.** Chapter 185-119 "Tract Standards" is hereby amended to add the following requirement in subparagraph D(3):

"D(3) Beds/units in Assisted Living Facilities, Nursing Homes and Hospice Care shall count as units for the purposes of this Section.



**Section 7.** Chapter 185-123 "Building Type Standards" is hereby amended to add the following requirement:

A. Long Term Care Residence Option.

Buildings developed in accordance with the Long Term Care Residence Option shall comply with the Building type standards of the Transitional Residential Area. The Planning Board may modify or waive some of the standards to accommodate the unique design requirements of Assisted Living Facilities and Nursing Homes.

**Section 8.** Chapter 185-124 "Village Center Design Standards" is hereby amended to add the following requirement:

C. Signage

(j) Assisted Living Facilities, Nursing Homes and Hospice Care uses may include up to two (2) ground identification signs not more than 30 square feet each in addition to permitted building signage.

**Section 9.** Chapter 185-124 "Village Center Design Standards" is hereby amended to add the following requirement:

G. Street Hierarchy

(3) Residential Streets

(c) Long term care residence option: when developed in accordance with the long term care residence option, the residential street layout shown on 185 attachment 8 may be replaced by an alternative street layout appropriate to the uses proposed.

**Section 10.** Severability.

If any section, paragraph, subdivision clause or provision of this Ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, sub-division, clause or provision and the remainder of the Ordinance shall be deemed valid and effective.

**Section 11**

This ordinance shall take effect after publication and passage in accordance with law.

HARDYSTON TOWNSHIP

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Jane Bakalarczyk, Township Clerk

Dated: \_\_\_\_\_, 2014

**NOTICE**

NOTICE OF PENDING ORDINANCE

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Mayor and Township Council of the Township of Hardyston, County of Sussex, New Jersey, held on \_\_\_\_\_, 2014 and will be considered for final passage after public hearing at a regular meeting of the Township Council to be held on \_\_\_\_\_, 2014 at 7:00 p.m. in the Municipal Building, 149 Wheatsworth Road, Hardyston, New Jersey. During the preceding week, copies of the ordinance will be made available at the Clerk's office in the Municipal Building to members of the general public.

HARDYSTON TOWNSHIP

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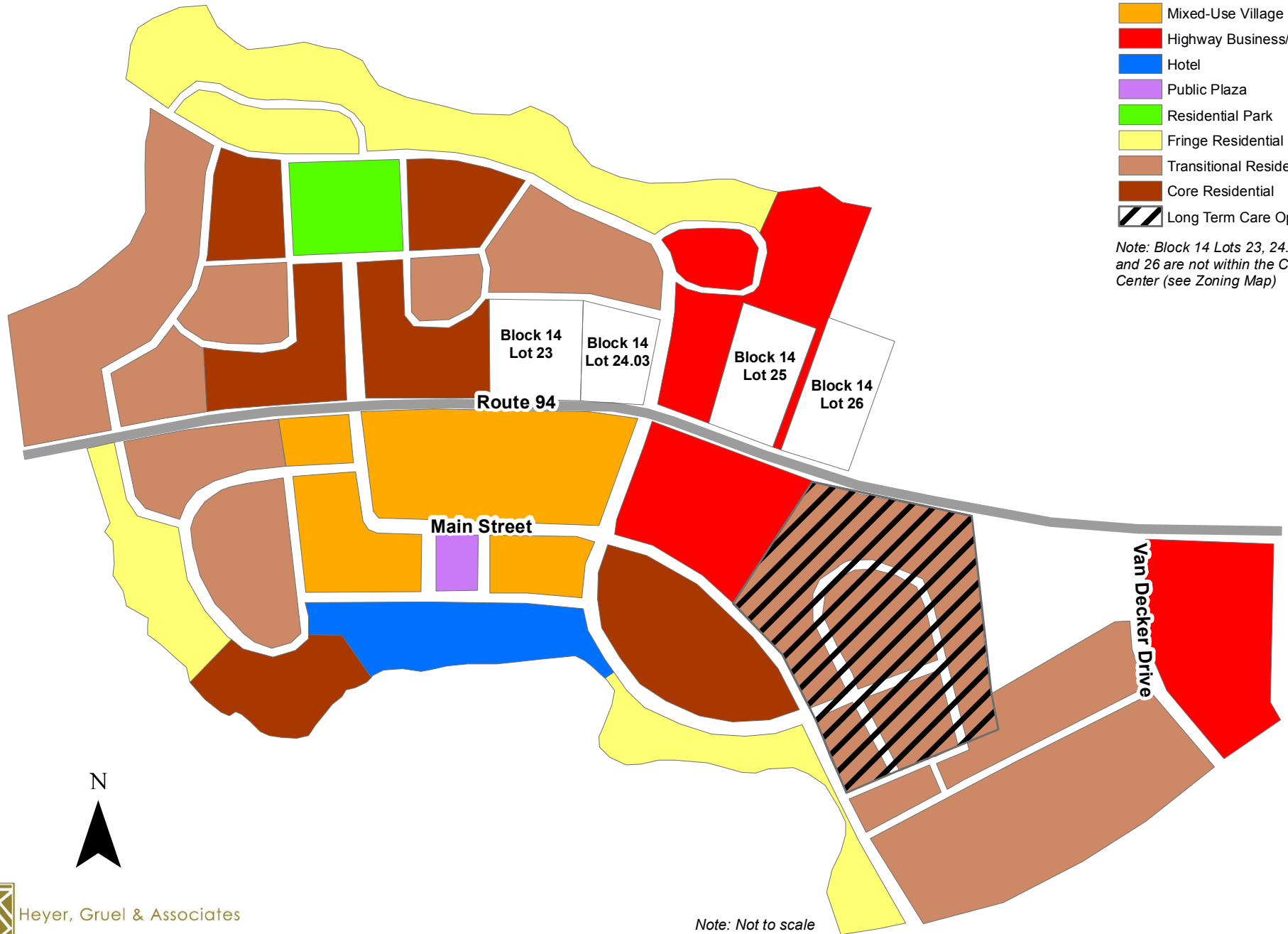
Jane Bakalarczyk, Township Clerk

The Township Clerk is hereby directed to give notice at least ten days prior to the hearing of the adoption of the ordinance to the County Planning Board and to all others entitled to pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this ordinance, after public hearing, the Township Clerk is hereby directed to publish notice of the passage and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

**Use Controls  
CR Village Center**

- Mixed-Use Village Core
- Highway Business/Commercial
- Hotel
- Public Plaza
- Residential Park
- Fringe Residential
- Transitional Residential
- Core Residential
- Long Term Care Option

*Note: Block 14 Lots 23, 24.03, 25 and 26 are not within the CR Village Center (see Zoning Map)*



 Heyer, Gruel & Associates

*Note: Not to scale*

Permitted Uses  
Village Center

Mixed-Use Village Core	Highway Business/ Commercial	Hotel	Fringe Residential	Transitional Residential	Core Residential	Public Plaza	Residential Park
<p>Retail sales and services (exclusive of auto related uses); restaurants and eating establishments (including curbside pickup); banks and financial institutions, theatres, health clubs, wellness centers, urgent care centers and surgical centers (non retail uses); offices; indoor recreational uses (exclusive of adult entertainment uses); pubs, taverns, bars, brew pubs, wineries including retail sales and tasting; art schools and cooking schools; apartments (above ground level), public and quasi-public uses such as museums or civic space; hotel condominiums only if operated in connection with a full service hotel developed in the Village Center; low and moderate affordable housing (above ground level) except that affordable units may be located on the ground level in the Village Core provided they do not front on Main Street"</p>	<p>Retail sales and services (exclusive of auto related uses); restaurants and eating establishments (including curbside pickup); banks and financial institutions, theatres, health clubs, wellness centers, urgent care centers and surgical centers (non retail uses); offices; indoor recreational uses (exclusive of adult entertainment uses); pubs, taverns, bars, brew pubs, wineries including retail sales and tasting; art schools and cooking schools</p> <p>Public and quasi-public uses such as museums or civic space</p>	<p>Hotels, conference centers and hotel condominiums subject to Section 185-58T(8)(a)-(c), (e), (f) which shall be standards of a permitted use</p> <p>Public uses</p>	<p>Townhouses</p> <p>Public uses</p>	<p>Townhouses</p> <p>Multi-family, including multi-story common entrance condominium buildings</p> <p>Public uses</p> <p>In that portion of the Transitional Residential Zone identified as Senior Residence Option shown on section 185 attachment 9 Use Controls Map CR Village Center, the following additional uses shall be permitted:</p> <p>Assisted Living Residences</p> <p>Nursing Homes</p> <p>Hospice Care Programs</p>	<p>Townhouses</p> <p>Multi-family, including multi-story common entrance condominium buildings</p> <p>Public uses</p>	<p>Farmers market, subject to Township licensing ordinance, ice skating rinks, mini golf courses, outdoor entertainment and amphitheatres</p>	<p>Public Use</p> <p>Outdoor entertainment</p>