

ZONING AND LAND DEVELOPMENT

94 Attachment 3

Borough of Washington

Highlands Municipal Referral Ordinance Appendices

[Added 6-17-2024 by Ord. No. 2024-08]

APPENDIX A. MAJOR POTENTIAL CONTAMINANT SOURCES

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

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

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APPENDIX B. MINOR POTENTIAL CONTAMINANT SOURCES

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

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

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APPENDIX C. HIGHLANDS ACT EXEMPTIONS

The Highlands Act includes seventeen exemptions from the provisions of the Act and Regional Master Plan, which include:

1. **Construction of a single family dwelling for own use or family use:** 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 this act or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase that lot;
2. **Construction of a single family dwelling on existing lot:** The construction of a single family dwelling on a lot in existence on the date of enactment of this act, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;
3. **Developments with prior Municipal and DEP Approvals:** A major Highlands development that received on or before March 29, 2004:
 - a. one of the following approvals pursuant to the "Municipal Land Use Law," L.1975, c. 291 (C.40:55D-1 et seq.):
 - i. preliminary or final site plan approval;
 - ii. final municipal building or construction permit;
 - iii. minor subdivision approval where no subsequent site plan approval is required;
 - iv. final subdivision approval where no subsequent site plan approval is required; or
 - v. preliminary subdivision approval where no subsequent site plan approval is required;

and

- b. at least one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development:
 - i. a permit or certification pursuant to the "Water Supply Management Act," P.L.1981, c. 262 (C.58:1A-1 et seq.);
 - ii. a water extension permit or other approval or authorization pursuant to the "Safe Drinking Water Act," P.L.1977, c. 224 (C.58:12A-1 et seq.);
 - iii. a certification or other approval or authorization issued pursuant to the "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c. 199 (C.58:11-23 et seq.); or
 - iv. a treatment works approval pursuant to the "Water Pollution Control Act," P.L.1977, c. 74 (C.58:10A-1 et seq.);

or

- c. one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the permits listed in subparagraphs (i) through (iv) of subparagraph (b) of this paragraph:

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- i. a permit or other approval or authorization issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c. 156 (C.13:9B-1 et seq.); or
 - ii. a permit or other approval or authorization issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c. 19 (C.58:16A-50 et seq.).
 - iii. The exemption provided in this paragraph shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph, shall expire if any of those qualifying approvals expire, and shall expire if construction beyond site preparation does not commence within three years after the date of enactment of this act;
4. **Reconstruction of buildings or structures within 125% of the footprint:** 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 This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use;
5. **Improvement to a single family dwelling:** Any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;
6. **Places of worship, schools, or a hospitals:** 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 this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;
7. **Woodland and Forest management plans:** An activity conducted in accordance with an approved woodland management plan pursuant to section 3 of L.1964, c. 48 (C.54:4-23.3) or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;
8. **Trails on public or private lands:** The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;
9. **Repair of transportation or infrastructure systems:** The routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes;
10. **Transportation safety projects:** The construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;
11. **Public utility lines, rights of way, or systems:** The routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of

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way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act;

12. **Reactivation of rail lines/rail beds:** The reactivation of rail lines and rail beds existing on the date of enactment of this act;
13. **Public Infrastructure:** The construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;
14. **Mining or Quarrying:** The mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;
15. **Site Remediation:** The remediation of any contaminated site pursuant to L.1993, c. 139 (C.58:10B-1 et seq.);
16. **Military lands:** Any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region;
17. **Affordable Housing:** A major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to P.L.1985, c. 398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. The exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.).

Certification:

I, Laurie A. Barton, Clerk of the Borough of Washington, County of Warren, State of New Jersey, do hereby certify that the foregoing Ordinance is a true and exact copy adopted by the Borough Council of the Borough of Washington on June 18, 2024

 Recoverable Signature



Laurie A. Courter, RMC
Borough Clerk
Signed by: e6b8ace5-a628-410e-a933-111f1ec968b9

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this

18th day of June, 2024.

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APPENDIX D. MUNICIPAL REFERRAL ORDINANCE DETERMINATION

BOROUGH OF WASHINGTON
HIGHLANDS MUNICIPAL REFERRAL ORDINANCE DETERMINATION

Date:

Applicant Information:

Re: [Application Number _____]

The Borough's Zoning Officer has reviewed the materials submitted to determine the applicability of Borough Ordinance No. _____ ("Highlands Municipal Referral Ordinance"). If applicable, this Ordinance requires the submission of a Highlands Council Consistency Determination as a component of completeness of any Application for Development. The Zoning Officer's determination is provided below.

General Applicability

Table with 2 columns: Question/Requirement and Y/N. Rows include: 1. Application is an Application for Development (as defined by MLUL); 2. Subject property lies within the municipal conformance Planning Area; 3. Referral Ordinance was effective on the date the application was filed; 4. Application seeks approval of: Site Plan, Subdivision, or Change in Use; 5. Application meets/exceeds any of the applicability thresholds: Proposes Ultimate Disturbance >= 1 AC, Proposes Cumulative Impervious Surface >= 1/4 AC, Creates 3 or More Dwelling Units, Introduces/Expands a Listed Use or Facility.

If the answer to any item in #1-4 above is "no," the Development Application is not subject to the Highlands Referral Ordinance.

Exclusions

Any improvement listed in the Highlands Municipal Referral Ordinance as an "Exclusion" (see Section 3.A) is not subject to the Ordinance and therefore does not require submission of a Highlands Council Consistency Determination as a condition of completeness.

- 1. The Application consists of a project/improvement that is excluded from the provisions of the Highlands Municipal Referral Ordinance. Yes No
2. The applicable exclusion(s) is/are: _____

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Highlands Act Exemptions

Any proposed activity, improvement, or development project listed as an exemption in the Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq., "Highlands Act") is not subject to the submission requirements of the Highlands Municipal Referral Ordinance (see Section 3.B). Evidence of a formal exemption determination must be provided by submission of a Highlands Exemption Determination issued by the Highlands Council.

1. The Application is accompanied by a Highlands Exemption Determination issued by the Highlands Council indicating that the proposed project is exempt from the Highlands Act.
_____ Yes _____ No

If the answer to question 1, above, is "yes," the Applicant has satisfactorily demonstrated that the Application is exempt from the Highlands Act and is therefore not subject to the Highlands Referral Ordinance. In such instances, the Application may be deemed complete without submission of a Highlands Council Consistency Determination.

3. The applicable exemption(s) is/are: _____

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Waivers

Under specific circumstances, the Applicant may be entitled to a waiver from the Highlands Municipal Referral Ordinance, in which case the application may be deemed complete without submission of a Highlands Council Consistency Determination. Pursuant to Section 2.C of the Highlands Municipal Referral Ordinance, these include the following:

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, 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. The “formal certification” should be a written statement by the applicant’s professional(s) that represents his or her professional opinion.

- 1. The Applicant is eligible for a waiver. ____Yes ____No
- 2. If applicable, the waiver is hereby granted under standard ____ (A, above) ____ (B, above) of the Highlands Municipal Referral Ordinance.

a. For a waiver pursuant to A above, the applicable exemption(s) is/are:

b. For a waiver pursuant to B above, the items submitted and the rationale for approval are:

Name (Print)
Borough Zoning Officer

Signature

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EXHIBIT 1. BOROUGH OF WASHINGTON HIGHLANDS AREA

